



# भारत का राजपत्र

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No. 34] NEW DELHI, AUGUST 17—AUGUST 23, 2014, SATURDAY/SRAVANA 26—BHADRA 1, 1936

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक् संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

वित्त मंत्रालय

(आर्थिक कार्य विभाग)

नई दिल्ली, 4 अगस्त, 2014

**का.आ. 2234.**—वायदा संविदा (विनियमन) अधिनियम, 1952 की धारा 3 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए राष्ट्रपति, वित्त मंत्रालय, आर्थिक कार्य विभाग के अधीन श्री रमेश अभिषेक, भारतीय प्रशासनिक सेवा (बिहार : 82), अध्यक्ष, वायदा बाजार आयोग (एफ.एम.सी.) मुंबई के कार्यालय को 9 जुलाई, 2014 से 3 महीनों के लिए बढ़ाते हैं।

[फा. सं. 10/12/2014-सीडी]

के. एन. मिश्र, अवर सचिव

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 4th August, 2014

**S.O. 2234.**—In exercise of the Powers conferred by sub-section (2) of Section 3 of the Forward Contracts (Regulation) Act, 1952, the President is pleased to extend the tenure of Shri Ramesh Abhishek, IAS (BH : 82), Chairman, Forward Markets Commission (FMC), Mumbai under the Ministry of Finance, Department of Economic Affairs, for 3 months w.e.f. 9th July, 2014.

[F.No. 10/12/2014-CD]

K. N. MISHRA, Under Secy.

### कृषि मंत्रालय

( कृषि अनुसंधान एवं शिक्षा विभाग )

नई दिल्ली, 13 अगस्त, 2014

**का.आ. 2235.**—केन्द्रीय सरकार कृषि मंत्रालय कृषि अनुसंधान एवं शिक्षा विभाग, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियमावली 1976 के नियम 10 के उप नियम (4) के अनुसरण में केन्द्रीय मात्रियकी शिक्षा संस्थान, भा.कृ.अ.प., मुम्बई का रोहतक केन्द्र, को जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

[फा. सं. 13-10/2009-हिंदी/286]

विजय सिंह, अवर सचिव

### MINISTRY OF AGRICULTURE

**(Department of Agriculture Research and Education)**

New Delhi, the 13th August, 2014

**S.O. 2235.**—In pursuance of sub-Rule (4) of Rule 10 of the Official Language (use for official purpose of the Union) Rules 1976, the Central Government, Ministry of Agriculture, Department of Agricultural Research & Education hereby notifies the Regional Research Centre, Rohtak of C.I.F.E., Versova, Andheri (W), Mumbai where more than 80% of staff have acquired the working knowledge of Hindi.

[F. No. 13-10/2009-Hindi/286]

VIJAY SINGH, Under Secy.

### स्वास्थ्य एवं परिवार कल्याण मंत्रालय

( स्वास्थ्य एवं परिवार कल्याण विभाग )

नई दिल्ली, 19 अगस्त, 2014

**का.आ. 2236.**—जबकि भारतीय चिकित्सा परिषद् संशोधन अध्यादेश, 2013 की धारा 3क की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिनांक 6 नवम्बर, 2013 को भारतीय चिकित्सा परिषद् का पुनर्गठन किया गया :

और जबकि केन्द्र सरकार ने भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 3 की उप-धारा (1) के खंड (ख) के अनुसरण में और संबंधित विश्वविद्यालयों/स्वास्थ्य विज्ञान विश्वविद्यालयों द्वारा यथा सूचित, निम्नलिखित व्यक्ति को इस अधिसूचना के जारी होने की तिथि से चार वर्षों के लिए भारतीय आयुर्विज्ञान परिषद् के सदस्य के रूप में निर्वाचित किया गया है।

अतः अब उक्त अधिनियम की धारा 3 की उप-धारा (1) के उपबंध के अनुसरण में केन्द्र सरकार द्वारा भारत सरकार के तत्कालीन स्वास्थ्य मंत्रालय की दिनांक 9 जनवरी, 1960 की अधिसूचना संख्या का.आ. 138 में निम्नलिखित संशोधन किए जाते हैं; अर्थात्:—

भारत सरकार, स्वास्थ्य एवं परिवार कल्याण मंत्रालय की दिनांक 6 नवम्बर, 2013 की अधिसूचना संख्या का.आ. 3325(अ) और उसके संशोधन में अंतिम प्रविष्टि तथा तत्संबंधी प्रविष्टि में निम्नलिखित को जोड़ा जाएगा, अर्थात्:

क्र. सं.	विश्वविद्यालय का नाम	निर्वाचित सदस्य का विवरण	चुनाव का तरीका
39.	मणिपुर विश्वविद्यालय	प्रो. वाई इबोतोन सिंह, प्रोफेसर ऑफ मेडिसिन, जे एन ईस्टिट्यूट ऑफ मेडिकल साइंसेज, पोरोम्पत, पूर्वी इम्फाल, मणिपुर-795005	कोर्ट द्वारा निर्वाचित
40.	दिल्ली विश्वविद्यालय	प्रो. अशवनी कुमार, प्रोफेसर, डिपार्टमेंट ऑफ माइक्रोबायोलॉजी, यूनिवर्सिटी कॉलेज ऑफ मेडिकल साइंसेज, शाहदरा, दिल्ली-110095	कोर्ट द्वारा निर्वाचित

[सं. वी. 11013/1/2013-एम ई पी-1 (वोल. II)]

अमित बिश्वास, अवर सचिव

**पाद टिप्पणी :** दिनांक 9 जनवरी, 1960 के का.आ. 138 के तहत भारत के राजपत्र में मुख्य अधिसूचना प्रकाशित की गई थी और भारतीय आयुर्विज्ञान परिषद् (संशोधन), द्वितीय अध्यादेश, 2013 (2013 का 11) के तहत अंतिम बार संशोधित किया गया था।

## MINISTRY OF HEALTH AND FAMILY WELFARE

## (Department of Health and Family Welfare)

New Delhi, the 19th August, 2014

**S.O. 2236.**—Whereas on 06th November, 2013, the Medical Council of India was re-constituted in exercise of the powers conferred by sub-section (1) of section 3A of the Indian Medical Council (Amendment) Ordinance, 2013;

And Whereas the Central Government, in pursuance of clause (b) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956) and as informed by the respective universities/health science universities, the following have been elected to be a member of the Medical Council of India for four years with effect from the date of issue of this notification.

Now, therefore, in pursuance of the provision of sub section (1) of Section 3 of the said Act, the Central Government hereby makes the following amendment in the Notification of the Government of India in the then Ministry of Health number S.O. 138 dated the 9th January, 1960, namely:

In the notification of the Government of India in the Ministry of Health & Family Welfare number S.O. 3325(E) dated the 06th November, 2013 and amendments thereto, after the last entry and entry relating thereto, the following shall be inserted, namely:

S.No.	Name of the University	Details of the Elected Member	Mode of Election
39.	Manipur University	Prof. Y. Iboton Singh, Professor of Medicine, JN Institute of Medical Sciences, Porompat, Imphal East, Manipur-795 005	Elected by the Court
40.	University of Delhi	Prof. Ashwani Kumar, Professor, Department of Microbiology, University College of Medical Sciences, Shahdara, Delhi-110 095.	Elected by the Court

[No. V. 11013/1/2013-MEP-I (Vol. II)]

AMIT BISWAS, Under Secy.

**Foot Note :** The principal notification was published in the Gazette of India vide number S.O. 138 dated the 9th January, 1960 and was last amended vide Indian Medical Council (Amendment) Second Ordinance, 2013 (11 of 2013).

नई दिल्ली, 20 जून, 2014

**का.आ. 2237.**—जबकि भारतीय चिकित्सा परिषद् संशोधन अध्यादेश, 2013 की धारा 3क की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिनांक 6 नवम्बर, 2013 को भारतीय चिकित्सा परिषद् का पुनर्गठन किया गया :

और जबकि केन्द्र सरकार ने भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 3 की उप-धारा (1) के खंड (ग) के अनुसरण में पंजीकृत आयुर्विज्ञान स्नातक निर्वाचन क्षेत्रों से सदस्यों का निर्वाचन किया और निम्नलिखित व्यक्ति को इस अधिसूचना के जारी होने की तिथि से चार वर्षों के लिए भारतीय आयुर्विज्ञान परिषद् के सदस्य के रूप में निर्वाचित किया गया है।

अतः अब उक्त अधिनियम की धारा 3 की उप-धारा (1) के उपबंध के अनुसरण में केन्द्र सरकार द्वारा भारत सरकार के तत्कालीन स्वास्थ्य मंत्रालय की दिनांक 9 जनवरी, 1960 की अधिसूचना संख्या का.आ. 138 में निम्नलिखित संशोधन किए जाते हैं; अर्थात्:—

भारत सरकार, स्वास्थ्य एवं परिवार कल्याण मंत्रालय की दिनांक 6 नवम्बर, 2013 की अधिसूचना संख्या का.आ. 3324(अ) में अंतिम प्रविष्टि तथा तत्संबंधी प्रविष्टि में निम्नलिखित को जोड़ा जाएगा, अर्थात्:—

क्रम सं.	पंजीकृत चिकित्सा स्तानक	निर्वाचित सदस्य का विवरण	निर्वाचन की प्रक्रिया
13.	पश्चिम बंगाल	डॉ. निर्मल माजी, सांता 8 नं. बस्ती, न्यू टाउन मोड़, बर्नपुर, आसनसोल, बर्धमान	निर्वाचित

[सं. वी. 11013/1/2014-एम ई पी-I]

डॉ. संजय श्रीवास्तव, डिप्टी कमिश्नर (एम ई)

**पाद टिप्पणी :** दिनांक 9 जनवरी, 1960 के का.आ. 138 के तहत भारत के राजपत्र में मुख्य अधिसूचना प्रकाशित की गई थी और भारतीय आयुर्विज्ञान परिषद् (संशोधन), द्वितीय अध्यादेश, 2013 (2013 का 11) के तहत अंतिम बार संशोधित किया गया था।

New Delhi, the 20th June, 2014

**S.O. 2237.**—Whereas on 06th November, 2013, the Medical Council of India was re-constituted in exercise of the powers conferred by sub-section (1) of section 3A of the Indian Medical Council (Amendment) Ordinance, 2013;

And Whereas the Central Government, in pursuance of clause (c) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956) has conducted the election from the Registered Medical Graduate Constituency and the following has been elected to be a member of the Medical Council of India for four years with effect from the date of issue of this notification.

Now, therefore, in pursuance of the provision of sub-section (1) of Section 3 of the said Act, the Central Government hereby makes the following amendment in the Notification of the Government of India in the then Ministry of Health number S.O. 138 dated the 9th January, 1960, namely: -

In the notification of the Government of India in the Ministry of Health & Family Welfare number S.O. 3324(E) dated the 6th November, 2013, after the last entry and entry relating thereto, the following shall be inserted, namely:—

S.No.	Name of the Registered Medical Graduate Constituency	Details of the Elected Member	Mode of Election
13.	West Bengal	Dr. Nirmal Maji, Santa 8 No. Basti, New Town More, Burnpur, Asansol, Bardhaman	Elected

[No. V.11013/1/2014-MEP-I]

Dr. SANJAY SHRIVASTAVA, Dy. Commissioner (ME)

**Foot Note :** The principal notification was published in the Gazette of India vide number S.O. 138 dated the 9th January, 1960 and was last amended vide Indian Medical Council (Amendment) Second Ordinance, 2013 (11 of 2013).

### उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

( उपभोक्ता मामले विभाग )

( भारतीय मानक ब्यूरो )

नई दिल्ली, 7 अगस्त, 2014

**का.आ. 2238.**—भारतीय मानक ब्यूरो ( प्रमाणन ) विनियम 1988 के विनियम 4 के उप नियम ( 5 ) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

### अनुसूची

क्र.सं.	लाइसेंस सं.	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्ष	भा.मा.सं ( भाग/अनुभाग ) : वर्ष
1.	4752673	20140703	मैसर्स टेक्ससब पम्प्स द. सं. 43-बी, शोभा नगर रोड, इलन्नो नगर, आवारमपालयम, कोयम्बत्तूर-641006	निम्मजनीय पम्पसेट	IS 8034 : 2002
2.	4752976	20140708	मैसर्स बिसलरी इंटरनेशनल प्रायवेट लि. 2/206A, वेल्लिपालयम गाँव, अलन्नोम्बु पोस्ट, मेट्रूपालयम, कोयम्बत्तूर-641302	पैकेजबंद पेय जल ( पैकेजबंद मिनरल जल के अलावा )	IS 14543 : 2004
3.	4755376	20140715	मैसर्स जय फुड प्रोडक्ट्स एस एफ सं 614/3B, गौन्डमपालयम, गणपतिपालयम पोस्ट, पल्लडम तालुक, तिरुप्पुर-641605	पैकेजबंद पेय जल ( पैकेजबंद मिनरल जल के अलावा )	IS 14543 : 2004

क्र.सं.	लाइसेंस सं.	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्ष	भा मा सं ( भाग/अनुभाग ) : वर्ष
4.	4758180	20140721	मैसर्स के पी टी पृथ्वी एस एफ सं 327/1, मुख्य रोड, टी. एन. पालयम ब्लॉक, अरक्कन कोटै, गोबीचेट्टीपालयम तालुक, ईरोड-638506	पैकेजबंद पेय जल (पैकेजबंद मिनरल जल के अलावा)	IS 14543 : 2004
5.	4758079	20140721	मैसर्स अयाटोम इलिक्ट्रिक (आई) प्राइवेट लिमिटेड, एस एफ सं 222, नेताजी नगर, नन्जुन्दपुरम रोड, रामनाथापुरम, कोयम्बतूर-641036	नैदानिक चिकित्सीय एक्स-रे उपकरण-भाग 1-सार्विक एवं सुरक्षा साधन	IS 7620 : Part 1: 1986
6.	4757885	20140721	मैसर्स जय वाटर ट्रीटमेन्ट कंपनी द.सं. 1A, पम्पिंग स्टेशन रोड 5, ईरोड-638003.	पैकेजबंद पेय जल (पैकेजबंद मिनरल जल के अलावा)	IS 14543 : 2004
7.	4757784	20140721	मैसर्स वाटरटेक (इंडिया) प्राइवेट लि. पाडुवमपल्ली गाँव, वागरायमपालयम, सुलूर तालुक, कोयम्बतूर-641659.	तप्त एवं अतप्त पेयजल वितरण व्यवस्था के लिए क्लोरिनकृत पॉलीविनाइल क्लोराइड (सी पी वी सी) पाइप	IS 15778 : 2007
8.	4757986	20140721	मैसर्स पी पी एम एक्वा इंडस्ट्रीज एस एफ सं 153, कृष्णारायापुरम गाँव, प्रीमियर इंडस्ट्रियल एस्टेट रोड, आवारमपालयम, कोयम्बतूर-641006.	पैकेजबंद पेय जल (पैकेजबंद मिनरल जल के अलावा)	IS 14543 : 2004
9.	47578685	20140722	मैसर्स मेसर्स प्रायमेक्स होम अप्लायेंसेस इंडिया प्रायवेट लिमिटेड 665/1, कालापट्टू (के रास्ते), वेल्लानापट्टी, कोयम्बतूर-641048.	घरेलू प्रेशर कुकर,	IS 2347 : 2006
10.	4758584	20140722	मैसर्स फ्रेंड्स निट्रिंग कंपनी 459, कामराज रोड, तिरुप्पुर-641604.	वस्त्रादि-सादा (सिंगल जर्सी), बुनी (निटेड) सूती बनियान	IS 4964 : 2003
11.	4760268	20140728	मैसर्स ए के सी प्लास्टुशन कंपनी सं 28, कैदामलै रोड, ऊतुकुली, तिरुप्पुर-638751	विद्युत प्रतिष्ठापन के लिए वाहिका-भाग 3-सख्त एवं	IS 9537 (Part 3): 1983
12.	4760369	20140728	मैसर्स एक्वारियस पी वी सी पाइप्स 7/79 (1), अरसामरतु तोट्टम, कोन्डयमपालयम, तेन्नामनलूर पोस्ट, तोन्डामुतूर (के रास्ते), कोयम्बतूर-641109.	पेयजल आपूर्ति के लिए अप्लास्टिकूत पी वी सी पाइप्स	सादा विद्युत अवरोधी वाहिका IS 4985: 2000

[ सं. सी एम डी/13 : 11 ]

एम. सदाशिवम, वैज्ञानिक 'एफ' एवं प्रमुख

**MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**

(Department of Consumer Affairs)  
(BUREAU OF INDIAN STANDARDS)

New Delhi, the 7th August, 2014

**S.O. 2238.**—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian standards (Certification) Regulation 1988, of the Bureau of Indian Standards, hereby notifies the grant of licence particulars of which are given in the following schedule.

**SCHEDULE**

Sl. No.	Licence No.	Grant Date	Name and Address (Factory) of the Party	Title of the Standard	IS No. Part/ Sec. Year
1.	4752673	20140703	M/s. Texsub Pumps D. No. 43-B, Shoba Nagar Road, Elango Nagar, Avarampalayam, Coimbatore-641 006	Submersible Pumpsets	IS 8034 : 2002
2.	4752976	20140708	M/s. Bisleri International Pvt. Ltd. 2/206A, Vellipalayam Village, Alangombu (P.O.), Mettupalayam, Coimbatore-641 302	Packaged Drinking Water (other than Packaged Natural Mineral Water)	IS 14543 : 2004
3.	4755376	20140715	M/s. Jai Food Products SF No. 614/3B, Goundampalayam, Ganapathypalayam (Post), Palladam (TK), Tirupur-641 605	Packaged Drinking Water (other than Packaged Natural Mineral Water)	IS 14543 : 2004
4.	4758180	20140721	M/s. KPT Prithvi, SF No. 327/1, Main Road, T.N. Palayam Block, Arakkan Kottai, Gobichetipalayam Taluk, Erode-638 506	Packaged Drinking Water (other than Packaged Natural Mineral Water)	IS 14543 : 2004
5.	4758079	20140721	M/s. Iatome Electric (I) Pvt. Ltd., SF No. 222, Netaji Nagar, Nanjundapuram Road, Ramanathapuram, Coimbatore-641 036	Diagnostic Medical X-ray Equipment-Part 1 : General and Safety Requirements	IS 7620 : Part 1: 1986
6.	4757885	20140721	M/s. Jai Water Treatment Company D/No. 1A, Pumping Station Road 5, Erode-638 003	Packaged Drinking Water (other than Packaged Natural Mineral Water)	IS 14543 : 2004
7.	4757784	20140721	M/s. Watertec (India) Pvt. Ltd. Paduvampali Village, Vagarayampalayam, Sulur Taluk, Coimbatore-641 659	Chlorinated polyvinyl chloride (CPVC) pipes for potable hot and cold water distribution supplies	IS 15778 : 2007
8.	4757986	20140721	M/s. PPM Aqua Industries SF No. 153, Krishnarayapuram Village, Premier Industrial Estate Road, Avarampalayam, Coimbatore-641006	Packaged Drinking Water (other than Packaged Natural Mineral Water)	IS 14543 : 2004
9.	47578685	20140722	M/s. Primex Home Appliances India Pvt. Ltd. 665/1, Kalapatti (Via.) Vellanapatti, Coimbatore-641 048	Comestic Pressure Cookers	IS 2347 : 2006
10.	4758584	20140722	M/s. Friends Knitting Company 459, Kamaraj Road, Tirupur-641 604	Textiles-Vest, Cotton, Plain Knitted	IS 4964 : 2003

Sl. No.	Licence No.	Grant Date	Name and Address (Factory) of the Party	Title of the Standard	IS No. Part/Sec. Year
11.	4760268	20140728	M/s. AKC Plastrusion Company No. 28, Kaithamalai Road, Uthukuli, Tiruppur-638 751	Conduits for electrical installations : Part 3 Rigid plain conduits of insulating materials	IS 9537 (Part 3): 1983
12.	4760369	20140728	M/s. Aquarius PVC Pipes 7/79(1), Arasamarathu Thottam, Kondayampalayam, Thennamanallur (P.O.), Thondamuthur (Via), Coimbatore-641109	Unplasticized PVC pipes for potable water supplies	IS 4985: 2000

[No. CMD/13:11]

M. SADASIVAM, Scientist 'F' &amp; Head

नई दिल्ली, 7 अगस्त, 2014

**का.आ. 2239.—**भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 5 के उप-विनियम (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शाई गई तारीख से रद्द/स्थगित कर दिया गया हैं :—

**अनुसूची**

क्र.सं.	लाइसेंस सं. सी एम/एल-	लाइसेंसधारी का नाम व पता	स्थगित किए गए/रद्द किए गए लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द होने की तिथि
1.	4597485	मेसर्स तंगामयिल ज्वेलरी लिमिटेड सं 210/C, मुत्तैय्या टॉवर्स, ईरोड रोड, वेल्लाकोविल, तिरुप्पुर-638111	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/ शिल्पकारी-शुद्धता एवं मुहरांकन, IS 1417: 1999	30-07-2014
2.	4599186	मेसर्स तंगामयिल ज्वेलरी लिमिटेड सं 210/C, मुत्तैय्या टॉवर्स, ईरोड रोड, वेल्लाकोविल, तिरुप्पुर-638111	चांदी एवं चांदी मिश्रधातुएं, आभूषण/ शिल्पकारी-शुद्धता एवं मुहरांकन, IS 2112: 2003	30-07-2014

[सं. सी एम डी/13 : 13]

एम. सदाशिवम, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 7th August, 2014

**S.O. 2239.—**In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulation, 1988, of the Bureau of Indian Standards, hereby notifies that the licence particulars of which are given below have been cancelled/suspended with effect from the date indicated against each :

**SCHEDULE**

Sl. No.	Licence No. CM/L-	Name & Address of the Licensee	Article/Process with relevant Indian Standard covered by the licence cancelled/suspension	Date of Cancellation
1.	4597485	M/s. Thangamayil Jewellery Limited No. 210/C, Muthiah Towers, Erode Road, Vellakovil, Tiruppur-638 111	Gold and gold alloys, jewellery/ artefacts-fineness and marking IS 1417 : 1999	30-07-2014
2.	4599186	M/s. Thangamayil Jewellery Limited No. 210/C, Muthiah Towers, Erode Road, Vellakovil, Tiruppur-638 111	Silver and silver alloys, jewellery/ artefacts-fineness and marking IS 2112 : 2003	30-07-2014

[No. CMD/13 : 13]

M. SADASIVAM, Scientist 'F' &amp; Head

**पेट्रोलियम और प्राकृतिक गैस मंत्रालय**

नई दिल्ली, 18 अगस्त, 2014

**का.आ. 2240.**—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि तमिलनाडु राज्य में एनौर से मदुराई तक वाया चंगलपट्टु-पान्डीचेरी-तिरुची एलपीजी परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड के द्वारा एक पाइपलाइन बिछाइ जानी चाहिए;

और, केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से उपाबद्ध अनुसूची में वर्णित है और जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के संबंध में श्री वी. मनिकंडन सक्षम प्राधिकारी, भूमि अर्जन अधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, पाइपलाइन परियोजना, प्लाट सं. 14, जयप्रकाश स्ट्रीट, वी.जी.पी. नगर, राजाजिपुरम, तिरुवल्लुर, तमिलनाडु-602001 को लिखित रूप में आक्षेप भेज सकेगा।

**अनुसूची**

तालुका : पोन्नरी	जिला : तिरुवल्लूर	राज्य : तमिलनाडु	क्षेत्रफल		
गांव का नाम	सर्वेक्षण	उप-			
	सं.-खण्ड	खण्ड	हेक्टर	एकर	वर्ग
	सं.	सं.		मीटर	
(1)	(2)	(3)	(4)	(5)	(6)
43. अथिपट्ट-II	354		3	38	40
	9	1ए	0	01	10
	9	1बी1ए	0	00	40
	6	3	0	10	10
141. पुङ्गिधिवक्कम	153	1डी	0	10	80
	155	10डी	0	08	00
	155	10सी	0	10	50
	155	10बी	0	06	10
	155	10ए	0	06	00
	155	5	0	11	50
	154	2सी2	0	05	35
	154	2सी1	0	01	75

	(1)	(2)	(3)	(4)	(5)	(6)
140. नैदावोयाल-II		154	3बी1	0	01	30
		154	3ए2	0	02	40
		154	3ए1	0	03	70
		175	2बी5	0	09	60
		175	1बी2	0	02	70
		175	2बी3	0	01	10
		175	2बी4	0	00	40
		175	1बी5	0	04	50
		175	1ए3	0	08	50
		175	1ए2	0	08	90
		169	3	0	06	50
		169	1	0	01	00
		168	2	0	00	40
		168	1	0	00	80
		167		0	03	65
		166		0	07	10
		164	4ए	0	07	40
		164	4बी	0	05	80
		162	1ए	0	01	10
		163	2	0	08	50
		10	2ए2	0	00	40
		9	3	0	00	40
		9	2	0	00	60
		9	1	0	30	00
		7	1	0	10	10
		8		0	05	40
		22		0	15	70
		27		0	42.	50
		26	1	0	06	20
		84	3	0	03	40
		84	2	0	03	20
		84	1	0	02	85
		85	2ए2	0	05	80
		85	2ए1	0	03	25
		85	1	0	00	50
		540	2	0	00	40
		540	1	0	03	50
		891		0	02	45
		541		0	10	30
		542ए		0	01	60
		544		0	07	90
		549		0	20	00
		550		0	06	30

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
	553	2	0	07	50		75	2ए	0	04	50
	553	1	0	14	00		75	1बी2	0	00	40
	554		0	09	65		75	1बी1	0	05	20
	589	2	0	02	20		75	1ए	0	03	40
	589	3	0	22	20		139		0	00	45
	586		0	25	25		72	5ए	0	04	50
	603		0	13	00		72	5बी	0	01	10
	585		0	11	60		72	3ए	0	00	40
	583	2	0	21	20		72	4	0	03	70
	583	1	0	12	50		71	2सी	0	04	30
	582	1	0	07	50		220	2बी	0	00	40
	582	2	0	09	15		220	2ए	0	03	90
	832	4ए	0	03	80		220	1बी	0	07	85
	832	4बी	0	01	54		220	1ए	0	01	85
92. वायलोरे - II	2049	7	0	57	60		222	1	0	02	10
	2049	6	0	09	90	96. ठोचकाडु	48	1सी	0	11	25
	1456		0	18	80		48	1बी	0	16	65
	1457		0	18	00		48	1ए	0	06	80
	1400		0	00	85		48	2ए	0	00	70
	1394	2	0	02	20		49	3	0	00	80
	1394	1	0	03	20		49	2	0	10	80
	1392	2	0	07	20		49	1	0	9	90
	1391	2	0	14	25		50		0	8	85
	1383		0	15	00	97. बेल्लाप्पक्कम	3	2	0	03	10
	1384		0	09	60		2	3	0	00	40
139. कलपक्कम	150		0	18	00		1	3	0	09	70
	149	2ए	0	03	00		1	2	0	01	10
	148	2ए	0	00	70		1	1	0	17	60
	148	2बी	0	06	25		18		0	14	40
	148	1	0	06	20		17	2	0	12	80
	147	2	0	03	60		17	1	0	07	10
	147	1सी	0	08	50		52	2	0	04	40
	147	1बी	0	01	80		52	1	0	05	50
	142	2	0	01	20		53	1	0	12	90
	142	3	0	06	60		54	9ए	0	05	20
	142	1बी	0	04	30		54	9बी	0	00	60
	142	1ए	0	05	90		54	6बी	0	00	40
	135	1बी	0	00	40		54	7	0	04	90
	135	1ए	0	03	40		54	8	0	00	40
	141	2	0	07	20		54	6सी	0	02	60
	141	1	0	04	35		59	15	0	01	80
	105	1सी	0	00	40		59	14बी	0	01	45
	75	2बी	0	04	50		59	14ए	0	00	85

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
	46		0	01	95		268	7ए२	0	02	50
	44	३बी	0	08	40		268	7ए१	0	06	50
	44	३ए	0	00	40		268	5	0	10	10
	44	1	0	06	70		268	6ए३	0	00	70
	45	1	0	02	15		268	6ए२	0	00	40
	43	२बी	0	01	95		268	6ए१	0	00	40
	43	२ए	0	00	55		268	4बी	0	08	00
	40	2	0	06	70		268	4ए	0	02	70
	40	1	0	09	50		268	३बी	0	05	40
	41	5	0	07	00		268	३ए	0	02	50
98. नालूर- I	6	5	0	00	40		268	2	0	09	00
	6	4	0	04	30		336	१बी	0	00	40
	6	३सी	0	02	90		269	6	0	03	70
	6	३बी	0	01	65		269	४बी	0	09	50
	6	३ए	0	02	25		269	३बी	0	02	45
	6	१बी१	0	00	40		269	३सी	0	03	30
	6	१बी२	0	10	40		269	३ए	0	02	70
	6	१ए३	0	00	40		269	1	0	00	65
	6	२ए	0	02	40		334	१सी	0	08	75
	6	१ए२बी	0	00	40		334	१बी	0	11	50
	7	१बी२	0	05	50		333	२सी	0	08	10
	7	१बी३	0	03	20		333	२ए	0	00	40
	7	१ए१	0	04	00		333	२बी	0	09	50
	7	१बी१	0	00	45		332	1	0	03	00
	7	१ए२	0	00	40		280		0	26	60
	7	१ए३	0	00	40		303	7	0	00	40
	8ए	५बी	0	11	70		302	7	0	18	75
	8ए	५ए	0	02	00		302	5	0	00	40
	8ए	२ए	0	00	40		302	4	0	02	00
	8ए	२बी	0	04	20		302	3	0	02	90
	8ए	३ए२बी	0	01	80		302	२बी५	0	02	30
	8ए	३ए२ए	0	05	40		302	२बी३	0	02	70
	८बी	1	0	03	80		302	२बी१	0	00	40
	११सी	११	0	00	40		302	२बी२	0	02	10
	११सी	८	0	08	00		302	१बी	0	03	80
	११सी	९	0	01	00		302	१ए	0	03	50
	११सी	३	0	03	85		299	1	0	36	00
	११सी	४बी	0	04	65		299	2	0	03	00
	११सी	५	0	04	85		300	5	0	09	50
	११सी	६	0	04	50		300	6	0	00	40
	११सी	७	0	02	25		300	3	0	07	85
	३३८	५	0	02	90		300	२	0	9	40
	३३८	६	0	04	00		300	१	0	5	75

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
78. अनुप्पंपटु-II	312	5बी	0	01	45		456	14बी	0	06	85
	312	5ए२	0	17	00		456	12	0	01	00
	313	5	0	01	35		456	11	0	03	30
	314	6ए	0	13	50		456	6	0	04	70
	314	2	0	7	80		456	8	0	03	90
	314	3	0	00	40		456	7	0	01	60
	314	1ए	0	06	00		456	1ए	0	00	40
	314	1बी	0	01	45		456	1बी	0	07	35
	315	2	0	04	40		452	6	0	14	25
	315	5	0	03	60		452	1बी	0	00	40
	315	3	0	00	45		452	2	0	19	20
	315	4	0	06	40		452	5	0	00	40
	316	8	0	08	00	99. वनिपाक्कम	188	2	0	11	70
	316	7	0	09	40		9	2	0	08	30
	317	1	0	00	40		9	3	0	10	65
	296	3	0	04	20		12	1	0	07	50
	296	1एफ	0	00	50		11	5	0	05	60
	296	1जी	0	11	40		107		0	08	10
	296	2	0	00	40		108	2	0	09	40
	297	6	0	07	20		108	1	0	09	00
	297	8	0	06	85		94		0	19	80
	297	7	0	03	20		92		0	09	55
	300	1बी	0	02	55		136	11	0	00	45
	299	4	0	05	20		135	2	0	13	00
	299	2ए१	0	01	80		135	6	0	00	60
	299	2ए२	0	05	25		135	3ए	0	04	00
	299	3ए	0	08	80		135	1बी	0	11	50
	299	3बी	0	00	40		135	1ए	0	05	40
	299	2बी	0	05	00		134	6	0	07	80
	459	6	0	18	75		134	3ए	0	04	70
	459	3	0	08	70		134	3बी	0	04	70
	457	13	0	00	40		134	2	0	10	30
	457	14	0	00	40		133	4	0	23	00
	457	12	0	09	00		122	1ए	0	03	15
	457	8बी	0	03	45		122	1बी	0	00	40
	457	8ए	0	03	15		123	6	0	08	80
	457	5बी	0	04	90		123	4	0	10	10
	457	6	0	00	40		123	2ए	0	10	50
	457	5सी	0	00	40		123	3	0	01	70
	457	4	0	00	40		123	1ए	0	03	30
	457	5ए	0	04	80		123	1बी	0	05	25
	456	15	0	02	50		126	3ए	0	03	40
	456	16	0	05	00		126	2ए	0	02	20

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
77. आमूर-II	130	1डी	0	01	65		219	16	0	01	45
	130	1सी	0	02	60		219	11	0	00	40
	130	1ए	0	03	10		219	12	0	04	00
	130	1बी	0	00	55		219	14	0	02	20
	299	11	0	06	85		219	13	0	04	40
	299	12	0	00	40		219	15	0	00	50
	299	10	0	02	70		219	7	0	08	90
	299	9	0	02	35		219	3	0	03	45
	299	7	0	08	00		219	2	0	03	80
	299	6	0	04	35		219	4	0	04	00
	299	5	0	04	00		219	5	0	02	00
	299	4	0	04	00		217	7	0	00	40
	299	1	0	02	60		217	8	0	10	60
	298	3ए	0	00	40		217	11	0	01	10
	297	7	0	07	50		217	9	0	01	60
	297	2ए	0	08	10		217	10	0	04	80
	297	1	0	06	70		248	1	0	00	60
	296	2इ	0	00	60		250	6	0	11	35
	296	2डी	0	01	50		255	1ए	0	13	15
	296	2बी	0	00	40		252	5बी	0	08	80
	296	1	0	00	40		253	4	0	02	10
	307	3	0	05	50		253	3	0	17	00
	295	6	0	08	00	106. जगनाथपुरम-II	377	3	0	15	40
	294	3	0	05	40		377	2	0	01	20
	294	2	0	05	00		377	1	0	01	00
	294	1	0	10	70		376	3	0	15	45
	235	6	0	04	70		376	2	0	02	95
	235	5	0	03	40		376	4	0	10	80
	235	3	0	00	85		376	1	0	01	30
	235	4	0	13	65		381	3	0	03	60
	235	1	0	02	00		381	2	0	07	20
	242	3	0	15	85		381	1	0	09	00
	242	6	0	03	45		382	3	0	03	90
	242	5	0	06	00		382	2	0	06	60
	242	4	0	05	55		382	6ए	0	03	00
	241	11	0	03	40		385	3	0	07	75
	244	8	0	06	50		385	2	0	04	55
	244	9	0	05	30		385	1	0	08	20
	244	12	0	00	40		386	5	0	04	70
	244	11	0	01	40		386	6ए	0	08	50
	244	10	0	04	20		386	12	0	05	55
	244	2	0	07	50		386	10ए	0	06	00
	244	1	0	09	70		355	10सी	0	11	40

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
	355	10बी	0	06	50		290	1ए२	0	10	65
	355	10ए	0	05	10		290	1ए१	0	02	30
	355	8सी	0	00	85		286	2	0	08	25
	355	8बी	0	02	00		286	1ए	0	15	70
	355	8ए	0	04	70		286	1बी	0	00	90
	355	1	0	07	20		259	6	0	11	90
	351	11ए	0	03	45		259	5	0	08	00
	351	11 बी२	0	02	80		259	3ए	0	00	40
	351	11 बी१	0	02	60		259	2	0	01	85
	351	10बी	0	03	10		261	2	0	06	30
	351	10ए	0	03	20		261	1	0	05	30
	351	6	0	03	00		256	5	0	02	40
	351	3	0	02	70		256	6	0	09	10
	351	4	0	02	90		256	2	0	00	40
	349	12	0	06	40		256	7बी	0	01	00
	349	11	0	02	50		256	7सी	0	06	75
	349	10	0	01	85		256	1	0	00	40
	349	9	0	03	80		255	7ए	0	05	00
	350	3ए	0	02	35		255	1इ	0	02	40
	350	3बी	0	05	25		255	1डी	0	02	00
	350	1	0	04	50		255	1सी	0	04	60
	347	6	0	04	70		255	1बी	0	04	00
	347	8	0	00	40		255	1ए	0	03	05
	347	7	0	05	50		253	1	0	11	50
	347	3इ	0	03	25		253	2	0	00	40
	347	2	0	06	75		252		0	30	50
	345	4बी	0	03	60		242	3	0	13	15
	345	4ए	0	03	45		242	2	0	00	40
	345	3	0	06	15		242	1	0	02	20
	345	2ए२	0	06	60		241	2	0	16	20
	344	5ए	0	00	70		241	1	0	10	10
	344	5बी	0	02	40						
	344	2	0	04	50						
	344	3	0	06	00	तालुका : उथुक्कोट्टई	जिला : तिरुवल्लूर	राज्य : तमिलनाडु			
76. थचूर	300	8बी	0	05	70	93. कोट्टाकुप्पम	14	1बी	0	01	85
	300	9	0	01	55		14	1ए	0	16	00
	300	8ए	0	02	50		15		0	17	10
	300	2बी	0	01	00		17	2	0	03	50
	290	1डी३	0	01	55		17	1	0	12	30
	290	1डी२	0	03	30		16	1ए	0	01	00
	290	1डी१	0	01	35		64		0	07	50
	290	1सी१	0	18	40		62	1	0	00	70
	290	1बी	0	15	90		63		0	17	10

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
	60	1	0	13	30		68	1	0	09	20
	58	1ए1	0	03	20		68	2	0	14	20
	57	1	0	05	10		79	2	0	01	15
	57	2	0	14	20		67		0	07	65
	76	2	0	23	10		85	1	0	09	00
	76	1	0	00	40		85	2	0	11	00
	45	2डी	0	03	00		86	2	0	07	60
94. अन्दानाकाकवक्कम	145		0	06	10		86	1	0	01	70
	146		0	02	90		86	3	0	07	00
	144	2	0	02	00		86	4	0	02	55
	143	3बी	0	09	80		87		0	01	80
	143	3ए2	0	09	90		88	2	0	14	80
	143	2सी	0	00	95		88	3	0	21	20
	143	2बी	0	00	40		107		0	00	40
	149	1	0	00	60		96	1	0	11	35
	150		0	17	00		96	2	0	18	00
	159	1	0	09	40		308		0	33	30
	158	2	0	07	60						
	161	2	0	18	00	तालुका : तिरुवल्लूर	जिला : तिरुवल्लूर	राज्य : तमिलनाडु			
	161	1बी2	0	00	40	39. अयलचेरी	3	3	0	21	30
	174	1ए	0	03	80		4	1	0	12	80
	174	1बी	0	00	40		4	4	0	00	40
	173	1ए	0	02	00		4	2ए	0	03	60
	173	1बी	0	04	10		4	2बी	0	07	45
	173	2	0	09	00		4	3	0	13	50
	177	2	0	00	40		33	4बी	0	06	25
	177	1	0	14	30		33	3बी	0	00	40
	178	1बी2	0	01	80		32	2ए	0	03	00
	191	1बी	0	15	40		32	1	0	09	90
	196	1बी	0	07	30		32	2बी	0	01	90
	196	1ए	0	08	00		32	4	0	04	40
	197		0	00	40		18		0	01	00
	207	1ए1	0	06	00		31	1	0	08	10
	206		0	13	45		31	3	0	01	20
95. मदविलगम	47	5	0	07	30		31	2	0	08	10
	47	6	0	01	85		31	7	0	04	70
	47	4बी1	0	04	65		30	1	0	04	75
	47	4बी2	0	03	50		20	2	0	04	30
	47	4ए	0	03	10		20	3बी	0	02	20
	47	3	0	10	45		20	3सी	0	07	60
	47	2	0	03	95						
	76	1	0	15	50						
	77	1	0	05	40						

[फा. सं. आर-25011/10/2014-ओ.आर. I]

पवन कुमार, अवर सचिव

**MINISTRY OF PETROLEUM AND NATURAL GAS**

New Delhi, the 18th August, 2014

**S.O. 2240.**—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of Liquefied Petroleum Gas from Ennore to Madurai Via Chengalpattu, Pondicherry(UT) and Trichy, a pipeline should be laid in the State of Tamil Nadu by Indian Oil Corporation Limited.

And whereas, it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may, within twenty one days from the date on which copies of the Gazette of India containing this notification are made available to the general public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri V. Manikandan, Competent Authority, Land Acquisition Officer Indian Oil Corporation Limited, For Petroleum Pipeline Projects, Plot No.14, Jayaprakash Street, V.G.P. Nagar, Rajajipuram, Tiruvallur, Tamil Nadu - 602 001.

**SCHEDULE**

Taluk : Ponneri      District : Tiruvallur      State : Tamil Nadu

Name of the Village	Survey No.	Sub Division No.	Area		
			Hec-tare	Are	Square Meter
(1)	(2)	(3)	(4)	(5)	(6)
43. Atthipattu-11	354		3	38	40
	9	1A	0	01	10
	9	1B1A	0	00	40
	6	3	0	10	10
141. Puzhidhivakkam	153	10	0	10	80
	155	10D	0	08	00
	155	10C	0	10	50
	155	10B	0	06	10
	155	10A	0	06	00
	155	5	0	11	50
	154	2C2	0	05	35
	154	2C1	0	01	75
	154	3B1	0	01	30

(1)	(2)	(3)	(4)	(5)	(6)
	154	3A2	0	02	40
	154	3A1	0	03	70
	175	2B5	0	09	60
	175	1B2	0	02	70
	175	2B3	0	01	10
	175	2B4	0	00	40
	175	1A5	0	04	50
	175	1A3	0	08	50
	175	1A2	0	08	90
	169	3	0	06	50
	169	1	0	01	00
	168	2	0	00	40
	168	1	0	00	80
	167		0	03	65
	166		0	07	10
	164	4A	0	07	40
	164	4B	0	05	80
	162	1A	0	01	10
	163	2	0	08	50
140. Neithavoyal - 11	10	2A2	0	00	40
	9	3	0	00	40
	9	2	0	00	60
	9	1	0	30	00
	7	1	0	10	10
	8		0	05	40
	22		0	15	70
	27		0	42.	50
	26	1	0	06	20
	84	3	0	03	40
	84	2	0	03	20
	84	1	0	02	85
	85	2A2	0	05	80
	85	2A1	0	03	25
	85	1	0	00	50
	540	2	0	00	40
	540	1	0	03	50
	891		0	02	45
	541		0	10	30
	542A		0	01	60
	544		0	07	90
	549		0	20	00
	550		0	06	30
	553	2	0	07	50

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
	553	1	0	14	00		75	1B2	0	00	40
	554		0	09	65		75	1B1	0	05	20
	589	2	0	02	20		75	1A	0	03	40
	589	3	0	22	20		139		0	00	45
	586		0	25	25		72	5A	0	04	50
	603		0	13	00		72	5B	0	01	10
	585		0	11	60		72	3A	0	00	40
	583	2	0	21	20		72	4	0	03	70
	583	1	0	12	50		71	2C	0	04	30
	582	1	0	07	50		220	2B	0	00	40
	582	2	0	09	15		220	2A	0	03	90
	832	4A	0	03	80		220	1B	0	07	85
	832	4B	0	01	54		220	1A	0	01	85
92. Vayalore - II	2049	7	0	57	60		222	1	0	02	10
	2049	6	0	09	90	96. Thottakadu	48	1C	0	11	25
	1456		0	18	80		48	1B	0	16	65
	1457		0	18	00		48	1A	0	06	80
	1400		0	00	85		48	2A	0	00	70
	1394	2	0	02	20		49	3	0	00	80
	1394	1	0	03	20		49	2	0	10	80
	1392	2	0	07	20		49	1	0	9	90
	1391	2	0	14	25		50		0	8	85
	1383		0	15	00	97. Vellappakkam	3	2	0	03	10
	1384		0	09	60		2	3	0	00	40
139. Kalpakkam	150		0	18	00		1	3	0	09	70
	149	2A	0	03	00		1	2	0	01	10
	148	2A	0	00	70		1	1	0	17	60
	148	2B	0	06	25		18		0	14	40
	148	1	0	06	20		17	2	0	12	80
	147	2	0	03	60		17	1	0	07	10
	147	1C	0	08	50		52	2	0	04	40
	147	1B	0	01	80		52	1	0	05	50
	142	2	0	01	20		53	1	0	12	90
	142	3	0	06	60		54	9A	0	05	20
	142	1B	0	04	30		54	9B	0	00	60
	142	1A	0	05	90		54	6B	0	00	40
	135	1B	0	00	40		54	7	0	04	90
	135	1A	0	03	40		54	8	0	00	40
	141	2	0	07	20		54	6C	0	02	60
	141	1	0	04	35		59	15	0	01	80
	105	1C	0	00	40		59	14B	0	01	45
	75	2B	0	04	50		59	14A	0	00	85
	75	2A	0	04	50		46		0	01	95

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
	44	3B	0	08	40		268	7A1	0	06	50
	44	3A	0	00	40		268	5	0	10	10
	44	1	0	06	70		268	6A3	0	00	70
	45	1	0	02	15		268	6A2	0	00	40
	43	2B	0	01	95		268	6A1	0	00	40
	43	2A	0	00	55		268	4B	0	08	00
	40	2	0	06	70		268	4A	0	02	70
	40	1	0	09	50		268	3B	0	05	40
	41	5	0	07	00		268	3A	0	02	50
98.Nalur-I	6	5	0	00	40		268	2	0	09	00
	6	4	0	04	30		336	1B	0	00	40
	6	3C	0	02	90		269	6	0	03	70
	6	3B	0	01	65		269	4B	0	09	50
	6	3A	0	02	25		269	3C	0	02	45
	6	1B1	0	00	40		269	3B	0	03	30
	6	1B2	0	10	40		269	3A	0	02	70
	6	1A3	0	00	40		269	1	0	00	65
	6	2A	0	02	40		334	1C	0	08	75
	6	1A2B	0	00	40		334	1B	0	11	50
	7	1B2	0	05	50		333	2C	0	08	10
	7	1B3	0	03	20		333	2A	0	00	40
	7	1A1	0	04	00		333	2B	0	09	50
	7	1B1	0	00	45		332	1	0	03	00
	7	1A2	0	00	40		280		0	26	60
	7	1A3	0	00	40		303	7	0	00	40
	8A	5B	0	11	70		302	7	0	18	75
	8A	5A	0	02	00		302	5	0	00	40
	8A	2A	0	00	40		302	4	0	02	00
	8A	2B	0	04	20		302	3	0	02	90
	8A	3A2B	0	01	80		302	2B5	0	02	30
	8A	3A2A	0	05	40		302	2B3	0	02	70
	8B	1	0	03	80		302	2B1	0	00	40
	11C	11	0	00	40		302	2B2	0	02	10
	11C	8	0	08	00		302	1B	0	03	80
	11C	9	0	01	00		302	1A	0	03	50
	11C	3	0	03	85		299	1	0	36	00
	11C	4B	0	04	65		299	2	0	03	00
	11C	5	0	04	85		300	5	0	09	50
	11C	6	0	04	50		300	6	0	00	40
	11C	7	0	02	25		300	3	0	07	85
	338	5	0	02	90		300	2	0	9	40
	338	6	0	04	00		300	1	0	5	75
	268	7A2	0	02	50	78. Anuppampattu-II	312	5B	0	01	45

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
	312	5A2	0	17	00		456	12	0	01	00
	313	5	0	01	35		456	11	0	03	30
	314	6A	0	13	50		456	6	0	04	70
	314	2	0	7	80		456	8	0	03	90
	314	3	0	00	40		456	7	0	01	60
	314	1A	0	06	00		456	1A	0	00	40
	314	1B	0	01	45		456	1B	0	07	35
	315	2	0	04	40		452	6	0	14	25
	315	5	0	03	60		452	1B	0	00	40
	315	3	0	00	45		452	2	0	19	20
	315	4	0	06	40		452	5	0	00	40
	316	8	0	08	00	99. Vannipakkam	188	2	0	11	70
	316	7	0	09	40		9	2	0	08	30
	317	1	0	00	40		9	3	0	10	65
	296	3	0	04	20		12	1	0	07	50
	296	1F	0	00	50		11	5	0	05	60
	296	1G	0	11	40		107		0	08	10
	296	2	0	00	40		108	2	0	09	40
	297	6	0	07	20		108	1	0	09	00
	297	8	0	06	85		94		0	19	80
	297	7	0	03	20		92		0	09	55
	300	1B	0	02	55		136	11	0	00	45
	299	4	0	05	20		135	2	0	13	00
	299	2A1	0	01	80		135	6	0	00	60
	299	2A2	0	05	25		135	3A	0	04	00
	299	3A	0	08	80		135	1B	0	11	50
	299	3B	0	00	40		135	1A	0	05	40
	299	2B	0	05	00		134	6	0	07	80
	459	6	0	18	75		134	3A	0	04	70
	459	3	0	08	70		134	3B	0	04	70
	457	13	0	00	40		134	2	0	10	30
	457	14	0	00	40		133	4	0	23	00
	457	12	0	09	00		122	1A	0	03	15
	457	8B	0	03	45		122	1B	0	00	40
	457	8A	0	03	15		123	6	0	08	80
	457	5B	0	04	90		123	4	0	10	10
	457	6	0	00	40		123	2A	0	10	50
	457	5C	0	00	40		123	3	0	01	70
	457	4	0	00	40		123	1A	0	03	30
	457	5A	0	04	80		123	1B	0	05	25
	456	15	0	02	50		126	3A	0	03	40
	456	16	0	05	00		126	2A	0	02	20
	456	14B	0	06	85		130	10D	0	01	65

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
	130	1C	0	02	60		219	11	0	00	40
	130	1A	0	03	10		219	12	0	04	00
	130	1B	0	00	55		219	14	0	02	20
77.Amur-II	299	11	0	06	85		219	13	0	04	40
	299	12	0	00	40		219	15	0	00	50
	299	10	0	02	70		219	7	0	08	90
	299	9	0	02	35		219	3	0	03	45
	299	7	0	08	00		219	2	0	03	80
	299	6	0	04	35		219	4	0	04	00
	299	5	0	04	00		219	5	0	02	00
	299	4	0	04	00		217	7	0	00	40
	299	1	0	02	60		217	8	0	10	60
	298	3A	0	00	40		217	11	0	01	10
	297	7	0	07	50		217	9	0	01	60
	297	2A	0	08	10		217	10	0	04	80
	297	1	0	06	70		248	1	0	00	60
	296	2E	0	00	60		250	6	0	11	35
	296	2D	0	01	50		255	1A	0	13	15
	296	2B	0	00	40		252	5B	0	08	80
	296	1	0	00	40		253	4	0	02	10
	307	3	0	05	50		253	3	0	17	00
	295	6	0	08	00	106.Jaganathapuram-II	377	3	0	15	40
	294	3	0	05	40		377	2	0	01	20
	294	2	0	05	00		377	1	0	01	00
	294	1	0	10	70		376	3	0	15	45
	235	6	0	04	70		376	2	0	02	95
	235	5	0	03	40		376	4	0	10	80
	235	3	0	00	85		376	1	0	01	30
	235	4	0	13	65		381	3	0	03	60
	235	1	0	02	00		381	2	0	07	20
	242	3	0	15	85		381	1	0	09	00
	242	6	0	03	45		382	3	0	03	90
	242	5	0	06	00		382	2	0	06	60
	242	4	0	05	55		382	6A	0	03	00
	241	11	0	03	40		385	3	0	07	75
	244	8	0	06	50		385	2	0	04	55
	244	9	0	05	30		385	1	0	08	20
	244	12	0	00	40		386	5	0	04	70
	244	11	0	01	40		386	6A	0	08	50
	244	10	0	04	20		386	12	0	05	55
	244	2	0	07	50		386	10A	0	06	00
	244	1	0	09	70		355	10C	0	11	40
	219	16	0	01	45		355	10B	0	06	50

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
	355	10A	0	05	10		290	1A1	0	02	30
	355	8C	0	00	85		286	2	0	08	25
	355	8B	0	02	00		286	1A	0	15	70
	355	8A	0	04	70		286	1B	0	00	90
	355	1	0	07	20		259	6	0	11	90
	351	11A	0	03	45		259	5	0	08	00
	351	11B2	0	02	80		259	3A	0	00	40
	351	11B1	0	02	60		259	2	0	01	85
	351	10B	0	03	10		261	2	0	06	30
	351	10A	0	03	20		261	1	0	05	30
	351	6	0	03	00		256	5	0	02	40
	351	3	0	02	70		256	6	0	09	10
	351	4	0	02	90		256	2	0	00	40
	349	12	0	06	40		256	7B	0	01	00
	349	11	0	02	50		256	7C	0	06	75
	349	10	0	01	85		256	1	0	00	40
	349	9	0	03	80		255	7A	0	05	00
	350	3A	0	02	35		255	1E	0	02	40
	350	3B	0	05	25		255	1D	0	02	00
	350	1	0	04	50		255	1C	0	04	60
	347	6	0	04	70		255	1B	0	04	00
	347	8	0	00	40		255	1A	0	03	05
	347	7	0	05	50		253	1	0	11	50
	347	3E	0	03	25		253	2	0	00	40
	347	2	0	06	75		252		0	30	50
	345	4B	0	03	60		242	3	0	13	15
	345	4A	0	03	45		242	2	0	00	40
	345	3	0	06	15		242	1	0	02	20
	345	2A2	0	06	60		241	2	0	16	20
	344	5A	0	00	70		241	1	0	10	10
	344	5B	0	02	40	Taluk : Uthukkottai District: Tiruvallur State: Tamil Nadu					
	344	2	0	04	50	93. Kottakuppam	14	1B	0	01	85
	344	3	0	06	00		14	1A	0	16	00
76. Thachur	300	8B	0	05	70		15		0	17	10
	300	9	0	01	55		17	2	0	03	50
	300	8A	0	02	50		17	1	0	12	30
	300	2B	0	01	00		16	1A	0	01	00
	290	1D3	0	01	55		64		0	07	50
	290	1D2	0	03	30		62	1	0	00	70
	290	1D1	0	01	35		63		0	17	10
	290	1C1	0	18	40		60	1	0	13	30
	290	1B	0	15	90		58	1A1	0	03	20
	290	1A2	0	10	65		57	1	0	05	10

(1)	(2)	(3)	(4)	(5)	(6)	(1)	(2)	(3)	(4)	(5)	(6)
	57	2	0	14	20		68	1	0	09	20
	76	2	0	23	10		68	2	0	14	20
	76	1	0	00	40		79	2	0	01	15
	45	2D	0	03	00		67		0	07	65
94. Annadanakaka-	145		0	06	10		85	1	0	09	00
vakkam	146		0	02	90		85	2	0	11	00
	144	2	0	02	00		86	2	0	07	60
	143	3B	0	09	80		86	1	0	01	70
	143	3A2	0	09	90		86	3	0	07	00
	143	2C	0	00	95		86	4	0	02	55
	143	2B	0	00	40		87		0	01	80
	149	1	0	00	60		88	2	0	14	80
	150		0	17	00		88	3	0	21	20
	159	1	0	09	40		107		0	00	40
	158	2	0	07	60		96	1	0	11	35
	161	2	0	18	00		96	2	0	18	00
	161	1B2	0	00	40		308		0	33	30
	174	1A	0	03	80	Taluk : Tiruvallur	District: Tiruvallur	State: Tamil Nadu			
	174	1B	0	00	40	39. Ayalcheri	3	3	0	21	30
	173	1A	0	02	00		4	1	0	12	80
	173	1B	0	04	10		4	4	0	00	40
	173	2	0	09	00		4	2A	0	03	60
	177	2	0	00	40		4	2B	0	07	45
	177	1	0	14	30		4	3	0	13	50
	178	1B2	0	01	80		33	4B	0	06	25
	191	1B	0	15	40		33	3B	0	00	40
	196	1B	0	07	30		32	2A	0	03	00
	196	1A	0	08	00		32	1	0	09	90
	197		0	00	40		32	2B	0	01	90
	207	1A1	0	06	00		32	4	0	04	40
	206		0	13	45		18		0	01	00
95. Madavilagam	47	5	0	07	30		31	1	0	08	10
	47	6	0	01	85		31	3	0	01	20
	47	4B1	0	04	65		31	2	0	08	10
	47	4B2	0	03	50		31	7	0	04	70
	47	4A	0	03	10		30	1	0	04	75
	47	3	0	10	45		20	2	0	04	30
	47	2	0	03	95		20	3B	0	02	20
	76	1	0	15	50		20	3C	0	07	60
	77	1	0	05	40						

[F.No.R-25011/10/2014-O.R.-I]

PAWAN KUMAR, Under Secy.

**श्रम और रोजगार मंत्रालय**

नई दिल्ली, 11 अगस्त, 2014

**का.आ. 2241.**—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा राउरकेला स्टील प्लांट, राउरकेला के कारखाने/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, अधिसूचना जारी होने की तारीख से एक वर्ष की अवधि के लिए लागू रहेगी।

2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात् :-

- (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जाएंगे;
  - (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदर्भ अंशदानों के आधार पर हकदार हो जाते हैं;
  - (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
  - (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थी;
  - (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;
  - (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा
  - (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथा-अपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गए थे या नहीं; या
  - (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिए गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
  - (iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:-
- (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा
  - (ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियाँ और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं।
  - (ग) प्रधान या आसन्न नियोजक की, उसके अभिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या
  - (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;
- (ङ) यथा-निर्धारित अन्य शक्तियों का प्रयोग करना।
- (6) विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और जब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/12/2014-एस.एस-I]

अजय मलिक, अवर सचिव

**MINISTRY OF LABOUR AND EMPLOYMENT**

New Delhi, the 11th August, 2014

**S.O. 2241.**—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of Rourkela Steel Plant, Rourkela from the operation of the said Act. The exemption shall be effective for a period of one year from the date of issue of notification.

2. The above exemption is subject to the following conditions namely :—

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees;
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the

- basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;
- (4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;
- (5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of:—
- (i) Verifying the particulars contained in any returned submitted under sub-section (1) of section 44 for the said period; or
  - (ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
  - (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
  - (iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:
    - (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
    - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
    - (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or
    - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
    - (e) exercise such other powers as may be prescribed.
- (6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.
- [No. S-38014/12/2014-SS-I]  
AJAY MALIK, Under Secy.  
नई दिल्ली, 13 अगस्त, 2014
- का.आ. 2242.—**केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91-के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा हिन्दुस्तान न्यूज़प्रिंट लि. कोट्टायाम, केरल के कारखानों/स्थापनाओं के नियमित कर्मचारियों को इस अधिनियम के प्रवर्तन से छूट प्रदान करती है। यह छूट, अधिसूचना जारी होने की तारीख से एक वर्ष की अवधि के लिए लागू रहेगी।
2. उक्त छूट निम्नलिखित शर्तों के अधीन है; अर्थात् :-
  - (1) पूर्वोक्त स्थापना जिसमें कर्मचारी नियोजित हैं, एक रजिस्टर रखेगी, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदनाम दिखाये जायेंगे;
  - (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रसुविधाएं प्राप्त करते रहेंगे जिनको पाने के लिए वे इस अधिसूचना द्वारा दी गई छूट के प्रवृत्त होने की तारीख से पूर्व संदर्भ अंशदानों के आधार पर हकदार हो जाते हैं;
  - (3) छूट प्राप्त अवधि के लिए, यदि कोई अभिदाय पहले ही किए जा चुके हों, तो वे वापस नहीं किए जाएंगे;
  - (4) उक्त कारखाने/स्थापना का नियोजक उस अवधि की बाबत जिसके दौरान उस कारखाने/स्थापना पर उक्त अधिनियम (जिसे इसमें इसके पश्चात् उक्त अवधि कहा गया है) प्रवर्तमान था ऐसी विवरणियां, ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की बाबत देनी अपेक्षित होती थी;
  - (5) निगम द्वारा उक्त कर्मचारी राज्य बीमा अधिनियम की धारा 45 की उप-धारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी;
  - (i) धारा 44 की उप-धारा (1) के अधीन, उक्त अवधि की बाबत दी गई किसी विवरण की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ; अथवा

- (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथाअपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं; या
- (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदों को, जिसके फलस्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, नकद में और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं; या
- (iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबंध प्रवृत्त थे, ऐसे किन्हीं उपबंधों का अनुपालन किया गया था या नहीं, निम्नलिखित कार्य करने के लिए सशक्त होगा:-  
 (क) प्रधान या आसन्न नियोजक से अपेक्षा करना कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है; अथवा  
 (ख) ऐसे प्रधान या आसन्न नियोजक के अधिभोगाधीन, किसी कारखाने, स्थापना, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियां और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करें और उनकी परीक्षा करने दें या ऐसी जानकारी दें जिसे वे आवश्यक समझते हैं।; या  
 (ग) प्रधान या आसन्न नियोजक की, उसके अधिकर्ता या सेवक की, या ऐसे किसी व्यक्ति को, जो ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में पाया जाए, यह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या  
 (घ) ऐसे कारखाने, स्थापना, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखा, बही या अन्य दस्तावेज की नकल तैयार करना या उद्धरण लेना;  
 (ङ) यथानिर्धारित अन्य शक्तियों का प्रयोग करना।
- (6) विनिवेश/निगमीकरण के मामले में, प्रदत्त छूट स्वतः रद्द हो जाएगी और जब नए प्रतिष्ठान को छूट हेतु समुचित सरकार की अनुमति लेनी होगी।

[सं. एस-38014/08/2012-एस.एस-I]

अजय मलिक, अवर सचिव

New Delhi, the 13th August, 2014

**S.O. 2242.**—In exercise of the power conferred by Section 88 read with Section 91-A of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby exempts the regular employees of factories/establishments of Hindustan Newsprint Ltd., Kottayam, Kerala from the operation of the said Act. The exemption shall be effective for a period of one year from the date of issue of notification.

2. The above exemption is subject to the following conditions namely :—

- (1) The aforesaid establishments wherein the employees are employed shall maintain a register showing the name and designations of the exempted employees;
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refundable;
- (4) The employer of the said factory/establishment shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred as the said period), such returns in such forms and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;
- (5) Any Social Security Officer appointed by the Corporation under Sub-Section (1) of Section 45 of the said ESI Act or other official of the Corporation authorized in this behalf by it, shall, for the purpose of :—
  - (i) Verifying the particulars contained in any returned submitted under sub-section (1) of section 44 for the said period; or
  - (ii) Ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or
  - (iii) Ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or
  - (iv) Ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory to be empowered to:

- (a) require the principal or immediate employer to him such information as he may consider necessary for the purpose of this Act; or
  - (b) at any reasonable time enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine accounts, books and other documents relating to the employment of personal and payment of wages or to furnish to him such information as he may consider necessary; or
  - (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or
  - (d) make copies of or take extracts from any register, account book or other document maintained in such factory, establishment, office or other premises,
  - (e) exercise such other powers as may be prescribed.
- (6) In case of disinvestment/corporatization, the exemption granted shall become automatically cancelled and then the new entity will have to approach the appropriate Government for exemption.

[No. S-38014/08/2012-SS-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 19 अगस्त, 2014

**का.आ. 2243.—**जबकि मैसर्स टीएसआर दाराशाव लिमिटेड (कोड संख्या एमएच/बीएएन/36077 के अंतर्गत बांद्र क्षेत्र में) (एतदुपरांत प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।

2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कर्मचारियों के लिए कम उपयुक्त नहीं है और कर्मचारी सदृश स्वरूप के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में उक्त अधिनियम अथवा कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरांत योजना के रूप में संदर्भित) के अंतर्गत उपलब्ध अन्य भविष्य निधि प्रसुविधाओं का भी लाभ उठा रहे हैं।

3. अतः, अब, केन्द्र सरकार उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना के साथ संलग्न शर्तों के अध्याधीन, एतद्वारा उक्त योजना के सभी उपबंधों के प्रचालन से 01-02-1991 से अगले अधिसूचना तक उक्त प्रतिष्ठान को छूट प्रदान करती है।

[सं. एस-35015/04/2012-एसएस-II]

सुभाष कुमार, अवर सचिव

अनुबंध

### कर्मचारी भविष्य निधि योजना, 1952 के उपबंधों से छूट प्रदान करने संबंधी शर्तें

1. नियोक्ता समय-समय पर केन्द्रीय सरकार अथवा केन्द्रीय भविष्य निधि आयुक्त, जैसी भी स्थिति हो, द्वारा दिए जाने वाले ऐसे निदेशों के अनुसार भविष्य निधि के प्रबंधन हेतु अपनी अध्यक्षता में एक न्यासी बोर्ड गठित करेगा। भविष्य निधि न्यासी बोर्ड में विहित होगी जो अन्य बातों के साथ-साथ कर्मचारी भविष्य निधि संगठन के प्रति भविष्य निधि में प्राप्तियों और उसमें से भुगतान के उचित लेखों और उनकी अधिरक्षा में शेष राशि के लिए उत्तरदायी होगा। इस प्रयोजनार्थ, “नियोक्ता” से :—

- (i) किसी प्रतिष्ठान, जो एक कारखाना हो, उसके संबंध में, कारखाने का स्वामी अथवा अधिष्ठाता अभिप्रेत होगा; और
- (ii) किसी अन्य प्रतिष्ठान के संबंध में, वह व्यक्ति, अथवा प्राधिकारी अभिप्रेत होगा, जिसका उस प्रतिष्ठान के कामकाज पर अंतिम नियंत्रण हो।

2. न्यासी बोर्ड हरेक तिमाही में कम से कम एक बार बैठक करेगा और वह केन्द्र सरकार/केन्द्रीय भविष्य निधि आयुक्त (सीपीएफसी) अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय समय पर जारी किए जाने वाले दिशानिर्देशों के अनुसार कार्य करेगा।

3. अधिनियम की धारा 2(च) में यथा परिभाषित सभी कर्मचारी, जो भविष्य निधि के सदस्य बनने के पात्र रहे हैं; यदि प्रतिष्ठान को छूट प्रदान नहीं की होती, उन्हें सदस्यों के रूप में नामांकित किया जाएगा।

4. जहां कोई कर्मचारी जो पहले ही किसी अन्य छूट-प्राप्त प्रतिष्ठान के किसी कर्मचारी भविष्य निधि अथवा भविष्य निधि का सदस्य हो, उसे उसके प्रतिष्ठान में नियोजित किया जाता है, तो नियोक्ता उसे तत्काल निधि के सदस्य के रूप में नामांकित करेगा। नियोक्ता ऐसे कर्मचारी के भविष्य निधि खाते में उसके पहले नियोक्ता से संचय राशियां अंतरित और जमा करवाने की भी व्यवस्था करेगा।

5. नियोक्ता भविष्य निधि को उसके द्वारा और कर्मचारी के द्वारा समय-समय पर अधिनियम के अंतर्गत निर्धारित दर से देय अंशदान को, जिस माह के लिए अंशदान देय हों उसके बाद के माह की 15 तारीख तक न्यासी बोर्ड को अंतरित करेगा। नियोक्ता न्यासी बोर्ड को किन्ही देयों के भुगतान में किसी विलम्ब के लिए अधिनियम की धारा 7थ के उपबंधों के अनुसार साधारण व्याज अदा करने का दायी होगा।

6. नियोक्ता भविष्य निधि के प्रशासन के सभी व्यय वहन करेगा और चोरी, डकैती, गबन, दुर्विनियोग अथवा किसी अन्य कारण से भविष्य निधि को हो सकने वाले किसी घाटे की भी भरपाई करेगा।
7. न्यासी बोर्ड द्वारा घोषित ब्याज में किसी कमी को भी नियोक्ता द्वारा पूरा किया जाना होगा और उसे सांविधिक सीमा तक लाना होगा।
8. नियोक्ता जब कभी नियम संशोधित किए जाएं, समुचित प्राधिकारी द्वारा यथा अनुमोदित, निधि के नियमों की एक प्रति अधिसंघ्यक कर्मचारियों की भाषा में उनके अनुवाद सहित प्रतिष्ठान के सूचना पट पर प्रदर्शित करेगा।
9. प्रतिष्ठान के भविष्य निधि नियमों के अंतर्गत निर्धारित देय अंशदान की दर, अग्रिम की शर्त और मात्रा तथा अन्य मामले और सदस्य के मासिक चालू शेष पर संगणित और न्यासी बोर्ड द्वारा घोषित, प्रत्येक सदस्य के खाते में जमा किया गया ब्याज, अधिनियम और उसके अंतर्गत निर्मित योजना में निर्धारित विभिन्न उपबंधों के अंतर्गत केन्द्र सरकार द्वारा घोषित दर से कम नहीं होगा।
10. योजना में कोई संशोधन, जो प्रतिष्ठान के विद्यमान नियमों की तुलना में कर्मचारियों के लिए अधिक लाभदायक हो, उसे न्यास के नियमों में औपचारिक संशोधन के लंबित रहते उन पर स्वतः लागू किया जाएगा।
11. नियोक्ता द्वारा नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के बिना नहीं किया जाएगा। क्षेत्रीय भविष्य निधि आयुक्त अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना रुख स्पष्ट करने का वाजिब अवसर देगा।
12. निकासी, अग्रिम और अंतरण के सभी दावे कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित अधिकतम समय सीमा के भीतर, शीघ्रता से निपटाए जाएंगे।
13. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किए गए अंशदान, निकासी और ब्याज दर्शाने के लिए विस्तरित लेखों का रख-रखाव करेगा। ऐसे अभिलेखों का रख-रखाव अधिमानतः इलैक्ट्रॉनिक रूप से रखा जाएगा। प्रतिष्ठान आवधिक रूप से जब कभी केन्द्रीय भविष्य निधि आयुक्त/क्षेत्रीय भविष्य निधि आयुक्त द्वारा निदेश दिया जाए, सदस्यों के लेखों को इलैक्ट्रॉनिक रूप से सम्प्रेषित करेंगे।
14. न्यासी बोर्ड वर्ष में एक बार वित्तीय/लेखा वर्ष के समाप्त होने के छः माह के भीतर प्रत्येक कर्मचारी को निःशुल्क लेखों का वार्षिक विवरण अथवा पासबुक जारी करेगा। जब कभी सदस्य चाहें, अतिरिक्त प्रिंटआउट नाममात्र के प्रभार के साथ उपलब्ध कराए जा सकते हैं। पासबुक के मामले में वह कर्मचारी के पास रहेगी जिसे प्रस्तुत किए जाने पर न्यासियों द्वारा आवधिक रूप से अद्यतन किया जाएगा।
15. नियोक्ता सभी सदस्यों को उनकी आवश्यकतानुसार कम्प्यूटर टर्मिनलों से अपने खाते में पड़ी शेष राशि को देखने के समर्थ बनाने के लिए आवश्यक प्रावधान करेंगे।
16. न्यासी बोर्ड और नियोक्ता कर्मचारी भविष्य निधि संगठन द्वारा यथा विहित रूप में ये विवरणियां विनिर्दिष्ट समय सीमा के भीतर

- मासिक/वार्षिक रूप से दायर करेंगे, जिसे न करने पर इसे चूक माना जाएगा तथा न्यासी बोर्ड और नियोक्ता संयुक्त रूप से और अलग-अलग, कर्मचारी भविष्य निधि संगठन द्वारा की जाने वाली उपयुक्त दाँड़िक कारवाई के भागी होंगे।
17. न्यासी बोर्ड समय-समय पर सरकार के निर्देशों के अनुसार भविष्य निधि के पैसे का निवेश करेगा। सरकार के निर्देशों के अनुसार निवेश करने में असफल होने पर न्यासी बोर्ड अलग-अलग और संयुक्त रूप से केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधि द्वारा यथा अधिरोपित अधिशुल्क का भागी बन जाएगा।
  - 18.(क) प्रतिभूतियां न्यास के नाम से प्राप्त की जाएंगी। इस प्रकार प्राप्त की गई प्रतिभूतियां अभौतिक (डीमेट) रूप में होनी चाहिए तथा न्यास के कार्यचालित रहने वाले क्षेत्रों में अपेक्षित सुविधा के उपलब्ध न होने की स्थिति में न्यासी बोर्ड संबंधित क्षेत्रीय भविष्य निधि आयुक्त को इसकी सूचना देंगे।
  - (ख) न्यासी बोर्ड लिपि-वार रजिस्टर बनाएगा तथा ब्याज की समय पर उगाही सुनिश्चित करेगा।
  - (ग) डीमेट खाते इस संबंध में केन्द्रीय सरकार द्वारा जारी अनुदेशों के अनुसार भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों के माध्यम से खोला जाए।
  - (घ) डीमेट खाते का खर्च न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाए। प्रतिभूतियों आदि की खरीद की दलाली जैसे निवेशों के सभी प्रकार के खर्चों को भी न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाएगा।
  19. प्रतिभूतियों और बाण्डों की खरीद जैसे ऐसे निवेश भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों की सुरक्षा अभिरक्षा में दर्ज किए जाएं, जो इसके संरक्षक होंगे। स्थापना की बंदी या परिसमाप्त या कर्मचारी भविष्य निधि, 1952 से छूट पर यह संरक्षक, न्यास के नाम पर प्राप्त तथा अपने जमा में पड़े निवेश को संबंधित क्षेत्रीय भविष्य निधि आयुक्त के, इस आशय के अनुरोध पर संबंधित क्षेत्रीय भविष्य निधि आयुक्त को सीधे अंतरित करेगा।
  20. स्थापना संबंधित क्षेत्रीय भविष्य निधि आयुक्त को उन निक्षेपागार प्रतिभागियों (भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित) के विवरण से सूचित करेगी, जिरके पास तथा जिनकी सुरक्षा अभिरक्षा में न्यास के मान पर किए गए निवेश अर्थात् प्रतिभूतियों, बाण्डों आदि में किए गए निवेश दर्ज किए गए हैं। तथापि, न्यासी बोर्ड उस धनराशि की उगाही कर सकता है, जो दावों के निपटान, नियमानुसार अग्रिमों की मंजूरी और नियोक्ता की सेवा छोड़ने की स्थिति में सदस्य के भविष्य निधि संचयन के अंतरण और प्रतिभूतियों की बिक्री द्वारा अन्य किसी प्राप्तियों अथवा क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के शर्ताधीन निधि के नाम में पड़े अन्य निवेशों जैसे बाध्यकारी व्ययों को पूरा करने के लिए अपेक्षित हों।

21. न्यास द्वारा किए गए निवेशों के लिए किसी वित्तीय या अन्य संस्थाओं द्वारा दिए जाने वाले किसी कमीशन, प्रोत्साहन, बोनस या अन्य आर्थिक लाभ इसके खाते में डाले जाएं।
22. नियोक्ता और न्यासी बोर्ड के सदस्य शर्तों का पालन करने की सहमति देते हुए लिखित वचन देंगे तथा यह वैधिक रूप से नियोक्ता और न्यासी बोर्ड के उत्तराधिकारियों और समनुदेशियों पर उनके साथ-साथ बाध्यकारी होगा।
23. नियोक्ता और न्यासी बोर्ड छूट के रद्द होने कि स्थिति में संबंधित क्षेत्रीय भविष्य निधि आयुक्त द्वारा विहित समय सीमा के भीतर तत्काल निधियों का अंतरण करने के वचन भी देगा। यह उन पर कानूनी रूप से बाध्यकारी होगा तथा उन्हें निधियों के अंतरण में कोई विलंब होने की स्थिति में अधियोजन का भागी बनाएगा।
- 24.(क) न्यासी बोर्ड द्वारा अनुरक्षित भविष्य निधि खाता किसी योग्य स्वतंत्र चार्टर्ड लेखकार द्वारा वार्षिक रूप से लेखा-परीक्षा करने के शर्ताधीन होगा। जहां भी आवश्यक समझा जाए, वहां कर्मचारी भविष्य निधि संगठन को अधिकार होगा कि यह किसी अन्य योग्य लेखा-परीक्षक द्वारा खातों की लेखा-परीक्षा कराए तथा इस प्रकार हुए खर्च नियोक्ता द्वारा वहन किए जाएंगे।
- (ख) लेखा-परीक्षकों द्वारा वित्तीय वर्ष अर्थात् 1 अप्रैल से 31 मार्च तक की समाप्ति के बाद छह महीने के भीतर लेखा-परीक्षीत तलन-पत्र सहित लेखा-परीक्षक की रिपोर्ट की प्रति सीधे इस कार्यालय में प्रस्तुत की जाए। तुलन-पत्र का प्रारूप और इस रिपोर्ट में प्रस्तुत की जाने वाली जानकारी कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित की जाएगी तथा संबंधित क्षेत्रीय भविष्य निधि आयुक्त के कार्यालय में इलैक्ट्रॉनिक प्रारूप के साथ हस्ताक्षरित प्रतिलिपि में उपलब्ध कराई जाएगी।
- (ग) एक ही लेखा-परीक्षकों को लगातार दो वर्ष के लिए तथा अगले वित्तीय वर्ष के पहले दिन से मिली छूट से अधिक के लिए नियुक्त न किया जाए।
25. लगातार तीन वित्तीय वर्षों तक कोई हानि या पूँजी आधार में कटौती को अगले वित्तीय वर्ष के पहले दिन से मिली छूट प्राप्त होगी।
26. नियोक्ता प्रत्येक माह की समाप्ति से 15 दिन के भीतर निरीक्षण हेतु ऐसी सुविधाओं का प्रावधान करेगा तथा ऐसे निरीक्षण प्रभारों का भुगतान करेगा जो केन्द्रीय सरकार द्वारा अधिनियम की धारा 17 के उप-खण्ड (3) के खण्ड (क) के अंतर्गत समय-समय पर दिए निर्देशों के अनुसार हों।
27. न्यासी बोर्ड या नियोक्ता द्वारा छूट देने के लिए शर्तों के किसी उल्लंघन की स्थिति में दी गई छूट संबंधित व्यक्ति को इस संबंध में कारण बताओ नोटिस जारी करने के बाद रद्द कर दी जाएगी।
28. किसी भी धोखे, गबन, गलत निवेश निर्णयों आदि के फलस्वरूप ट्रस्ट को हुए किसी भी नुकसान की स्थिति में नियोक्ता नुकसान पूरा करने का भागी होगा।

29. किसी विलय, अविलय, अभिग्रहण, बिक्री, एकीकरण, सहायक कंपनी का गठन चाहे पूर्णतः स्वामित्व वाली हो या नहीं इत्यादी के फलस्वरूप यदि प्रतिष्ठान की कानूनी स्थिति में कोई भी बदलाव होता है तो दी गई छूट निरस्त होगी एवं प्रतिष्ठान को तुरंत नई छूट देने के लिए मामले की रिपोर्ट करनी चाहिए।

30. एक ही भविष्य निधि ट्रस्ट में एक से अधिक इकाई/प्रतिष्ठानों के भाग लेने की स्थिति में भाग लेने वाली इकाइयों के किसी भी ट्रस्टी/नियोक्ता द्वारा कोई भी चूक होने पर भी ट्रस्टी संयुक्त रूप से एवं अलग से जिम्मेदार/उत्तरदायी होंगे और आरपीएफसी आम भविष्य निधि ट्रस्ट के सभी न्यासियों के विरुद्ध उपयुक्त कानूनी कार्रवाई करेगा।

31. केन्द्र सरकार प्रतिष्ठान की छूट की निरंतरता के लिए शर्तों को बढ़ा सकती है और जब भी इनको संप्रेषित किया जाएगा ये प्रतिष्ठान इन अतिरिक्त शर्तों का अनुपालन करने के लिए बाध्य होंगे।

New Delhi, the 19th August, 2014

**S.O. 2243.**—Whereas M/s. TSR Darashaw Ltd. [under Code No. MH/BAN/36077 in Bandra Region] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions annexed with this notification, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-2-1991 until further notification.

[No. S-35015/4/2012-SS-II]  
SUBHASH KUMAR, Under Secy.  
**ANNEXURE**

**CONDITIONS FOR GRANT OF EXEMPTION FROM THE PROVISIONS OF EMPLOYEES PROVIDENT FUND SCHEME, 1952**

- The employer shall establish a Board of Trustees under his Chairmanship for the management of the Provident Fund according to such directions as may be given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time. The provident fund shall vest in the Board of Trustees

who will be responsible for and accountable to the Employees' Provident Funds Organisation, inter alia, for proper accounts of the receipts into and payment from the Provident Fund and the balance in their custody. For this purpose, the "employer" shall mean :

- (i) In relation to an establishment, which is a factory, the owner or occupier of the factory: and .
- (ii) In relation to any other establishment, the person who, or the authority, that has the ultimate control over the affairs of the establishment.

2. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner (CPFC) or an officer authorized by him.

3. All employees' as defined in Section 2(f) of the act, who have been eligible to become members of the Provident Fund' had the establishment not been granted exemption, shall be enrolled as members.

4. Where an employee who is already a member of Employees' Provident fund or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund. The employer should also arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited into his account.

5. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and employees at the rate prescribed under the act from time to time by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of Section 7Q of the Act for any delay in payment of any dues towards the Board of Trustees.

6. The employer shall bear all the expenses of the administration of Provident Fund and also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.

7. Any deficiency in the interest declared by the Board of Trustees is to be made good by the employer to bring it up to the statutory limit.

8. The employer shall display on the notice board of the establishment, a copy of the rules of the funds as approved by the appropriate authority and as and when amended thereto along with a translation in the language of the majority of the employees.

9. The rate of contributions payable, the conditions and quantum of advances and other matters laid down under the provident fund rules of the establishment and the interest credited to the account of each member, calculated on the monthly running balance of the member

and declared by the Board of Trustees shall not be lower than those declared by the Central Government under the various provisions prescribed in the Act and Scheme framed thereunder.

10. Any amendment to the Scheme, which is more beneficial to the employees than the existing rules of the establishment, shall be made applicable to them automatically pending formal amendment of the Rules of the Trust.

11. No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner. The Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.

12. All claims for withdrawals, advances and transfers should be settled expeditiously, within the maximum time frame prescribed by the Employees' Provident Fund Organisation.

13. The Board of Trustees shall maintain detailed accounts to show the contributions credited withdrawal and interest in respect of each employee. The maintenance of such records should preferably be done electronically. The establishments should periodically transmit the details of members' accounts electronically as and when directed by the Central Provident Commissioner/Regional Provident Fund Commissioner.

14. The Board of Trustees shall issue an annual statement of accounts or pass books to every employee within six months of the close of financial/accounting year free of cost once in the year. Additional printouts can be made available as and when the members want, subject to nominal charges. In case of passbook, the same shall remain in custody of employee to be updated periodically by the Trustees when presented to them.

15. The employer shall make necessary provisions to enable all the members to be able to see their account balance from the computer terminals as and when required by them.

16. The Board of Trustees and the employer shall file such returns monthly/annually as may be prescribed by the Employees' Provident Fund Organisation within the specified time limit, failing which it will be deemed as a default and the Board of Trustees and employer will jointly and separately be liable for suitable penal action by the Employees' Provident Fund Organisation.

17. The Board of Trustees shall invest the monies of the provident fund as per the directions of the Government from time to time. Failure to make investments as per directions of the Government shall make the Board of Trustees separately and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

18. (a) The securities shall be obtained in the name of Trust. The securities so obtained should be in dematerialized (DEMAT) form and in case the required facility is not available in the areas where the trust operates the Board of Trustees shall inform the Regional Provident Fund Commissioner concerned about the same.
- (b) The Board of Trustees shall maintain a script wise register and ensure timely realization of interest.
- (c) The DEMAT Account should be opened through depository participants approved by Reserve Bank of India and Central Government in accordance with the instructions issued by the Central Government in this regard.
- (d) The cost of maintaining DEMAT account should be treated as incidental cost of investment by the Trust. Also all types of cost of investments like brokerage for purchase of securities etc. shall be treated as incidental cost of investment by the Trust.
19. All such investments made like purchase of securities and bonds, should be lodged in the safe custody of depository participants approved by Reserve Bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952 such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the Regional PF Commissioner concerned directly on receipt of request from the Regional PF Commissioner concerned to that effect.
20. The establishment shall intimate to the Regional P.F. Commissioner concerned the details of depository participants (approved by RBI and Central Government), with whom and in whose safe custody, the investments made in the name of trust, viz., investments made in securities, bonds, etc. have been lodged. However, the Board of Trustees may raise such sum of sums of money as may be required for meeting obligatory expenses such as settlement of claims, grant of advances as per rules and transfer of member's PF accumulations in the event of his/her leaving service of the employer and any other receipts by sale of the securities or other investments standing in the name of the Fund subject to the prior approval of the Regional PF Commissioner.
21. Any commission, incentive, bonus or other pecuniary rewards given by any financial or other institutions for the investments made by the Trust should be credited to its account.
22. The employer and the members of the Board of Trustees, shall furnish a written undertaking agreeing to abide by the conditions and this shall be legally binding on the employer and the Board of Trustees, including their successors and assignees.
23. The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the event of cancellation of relaxation. This shall be legally binding on them and will make them liable for prosecution in the event of any delay in the transfer of funds.
24. (a) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent chartered accountant annually. Where considered necessary the EPFO shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.
- (b) A copy of the Auditor's report alongwith the audited balance sheet should be submitted to this office by the Auditors directly within six months after the closing of the financial year from 1st April to 31st March. The format of the balance sheet and the information to be furnished in the report shall be prescribed by the Employees' Provident fund Organisation and made available with the RPFC office in electronic format as well as a signed hard copy.
- (c) The same auditors should not be appointed for two consecutive years and not more than the relaxation withdrawn from the first day of the next succeeding financial year.
25. Any loss for the three consecutive financial years or erosion in the capital base shall have the relaxation withdrawn from the first day of the next succeeding financial year.
26. The employer shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of Section 17 of the Act within 15 days from the close of every month.
27. In the event of any violation of the conditions for grant of relaxation, by the employer or the Board of Trustees, the relaxation granted shall be cancelled after issuing a show-cause notice in this regard to the concerned persons.
28. In the event of any loss to the trust as a result of any fraud, defalcation, wrong investment decisions etc. the employer shall be liable to make good the loss.
29. In case of any change of legal status of the establishment as a result of merger, de-merger, acquisition, sale, amalgamation, formation of a subsidiary, whether wholly owned or not etc., the relaxation granted shall stand revoked and the establishment should promptly report the matter for grant of fresh relaxation.
30. In case there are more than one unit/establishment participating in the common Provident Fund Trust, all the trustees shall be jointly' and separately liable/responsible

for any default committed by any of the trustees/employer of any of the participating units and the RPFC shall take suitable legal action against all the trustees of the common Provident Fund Trust.

31. The Central Government may lay down further conditions for continuation of exemption of the establishment and the establishment shall be bound to comply with these additional conditions as and when the same are communicated.

नई दिल्ली, 19 अगस्त, 2014

**का.आ. 2244.—जबकि मैसर्स माउंट शिवालिक ब्रिवेरीज लिमिटेड (कोड संख्या पीएन/4582 के अंतर्गत चंडीगढ़ क्षेत्र में) (एतदुपरांत प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।**

2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कर्मचारियों के लिए कम उपयुक्त नहीं है और कर्मचारी सदृश स्वरूप के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में उक्त अधिनियम अथवा कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरांत योजना के रूप में संदर्भित) के अंतर्गत उपलब्ध अन्य भविष्य निधि प्रसुविधाओं का भी लाभ उठा रहे हैं।

3. अतः, अब, केन्द्र सरकार उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना के साथ संलग्न शर्तों के अध्याधीन, एतद्वारा उक्त योजना के सभी उपबंधों के प्रचालन से 01-03-1988 से अगले अधिसूचना तक उक्त प्रतिष्ठान को छूट प्रदान करती है।

[सं. एस-35015/52/2014-एसएस-II]

सुभाष कुमार, अवर सचिव

अनुबंध

### कर्मचारी भविष्य निधि योजना, 1952 के उपबंधों से छूट प्रदान करने संबंधी शर्तें

1. नियोक्ता समय-समय पर केन्द्रीय सरकार अथवा केन्द्रीय भविष्य निधि आयुक्त, जैसी भी स्थिति हो, द्वारा दिए जाने वाले ऐसे नियमों के अनुसार भविष्य निधि के प्रबंधन हेतु अपनी अध्यक्षता में एक न्यासी बोर्ड गठित करेगा। भविष्य निधि न्यासी बोर्ड में विहित होगी जो अन्य बातों के साथ-साथ कर्मचारी भविष्य निधि संगठन के प्रति भविष्य निधि में प्रतिनियों और उसमें से भुगतान के उचित लेखों और उनकी अभिरक्षा में शेष राशि के लिए उत्तरदायी होगा। इस प्रयोजनार्थ, “नियोक्ता” से :—

(i) किसी प्रतिष्ठान, जो एक कारखाना हो, उसके संबंध में, कारखाने का स्वामी अथवा अधिष्ठाता अभिप्रेत होगा; और

(ii) किसी अन्य प्रतिष्ठान के संबंध में, वह व्यक्ति, अथवा प्राधिकारी अभिप्रेत होगा, जिसका उस प्रतिष्ठान के कामकाज पर अंतिम नियंत्रण हो।

2. न्यासी बोर्ड हरेक तिमाही में कम से कम एक बार बैठक करेगा और वह केन्द्र सरकार/केन्द्रीय भविष्य निधि आयुक्त (सीपीएफसी) अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय-समय पर जारी किए जाने वाले दिशानिर्देशों के अनुसार कार्य करेगा।

3. अधिनियम की धारा 2(च) में यथा परिभाषित सभी कर्मचारी, जो भविष्य निधि के सदस्य बनने के पात्र रहे हैं; यदि प्रतिष्ठान को छूट प्रदान नहीं की होती, उन्हें सदस्यों के रूप में नामांकित किया जाएगा।

4. जहां कोई कर्मचारी जो पहले ही किसी अन्य छूट-प्राप्त प्रतिष्ठान के किसी कर्मचारी भविष्य निधि अथवा भविष्य निधि का सदस्य हो, उसे उसके प्रतिष्ठान में नियोजित किया जाता है, तो नियोक्ता उसे तत्काल निधि के सदस्य के रूप में नामांकित करेगा। नियोक्ता ऐसे कर्मचारी के भविष्य निधि खाते में उसके पहले नियोक्ता से संचय राशियां अंतरित और जमा करवाने की भी व्यवस्था करेगा।

5. नियोक्ता भविष्य निधि को उसके द्वारा और कर्मचारी के द्वारा समय-समय पर अधिनियम के अंतर्गत निर्धारित दर से देय अंशदान को, जिस माह के लिए अंशदान देय हों उसके बाद के माह की 15 तारीख तक न्यासी बोर्ड को अंतरित करेगा। नियोक्ता न्यासी बोर्ड को किन्हीं देयों के भुगतान में किसी विलम्ब के लिए अधिनियम की धारा 7 के उपबंधों के अनुसार साधारण व्याज अदा करने का दायी होगा।

6. नियोक्ता भविष्य निधि के प्रशासन के सभी व्यय वहन करेगा और चोरी, डकैती, गबन, दुर्विनियोग अथवा किसी अन्य कारण से भविष्य निधि को हो सकने वाले किसी घाटे की भी भरपाई करेगा।

7. न्यासी बोर्ड द्वारा घोषित व्याज में किसी कमी को भी नियोक्ता द्वारा पूरा किया जाना होगा और उसे सांविधिक सीमा तक लाना होगा।

8. नियोक्ता जब कभी नियम संशोधित किए जाएं, समुचित प्राधिकारी द्वारा यथा अनुमोदित, निधि के नियमों की एक प्रति अधिसंख्यक कर्मचारियों की भाषा में उनके अनुवाद सहित प्रतिष्ठान के सूचना पट पर प्रदर्शित करेगा।

9. प्रतिष्ठान के भविष्य निधि नियमों के अंतर्गत निर्धारित देय अंशदान की दर, अग्रिम की शर्तें और मात्रा तथा अन्य मामले और सदस्य के मासिक चालू शेष पर संगणित और न्यासी बोर्ड द्वारा घोषित, प्रत्येक सदस्य के खाते में जमा किया गया व्याज, अधिनियम और उसके अंतर्गत निर्मित योजना में निर्धारित विभिन्न उपबंधों के अंतर्गत केन्द्र सरकार द्वारा घोषित दर से कम नहीं होगा।

10. योजना में कोई संशोधन, जो प्रतिष्ठान के विद्यमान नियमों की तुलना में कर्मचारियों के लिए अधिक लाभदायक हो, उसे न्यास के नियमों में औपचारिक संशोधन के लंबित रहते उन पर स्वतः लागू किया जाएगा।

11. नियोक्ता द्वारा नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के बिना नहीं किया जाएगा। क्षेत्रीय भविष्य निधि आयुक्त अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना रुख स्पष्ट करने का वाजिब अवसर देगा।

12. निकासी, अग्रिम और अंतरण के सभी दावे कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित अधिकतम समय सीमा के भीतर, शीघ्रता से निपटाए जाएंगे।

13. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किए गए अंशदान, निकासी और ब्याज दर्शने के लिए विस्तरित लेखों का रख-रखाव करेगा। ऐसे अभिलेखों का रख-रखाव अधिमानतः इलैक्ट्रॉनिक रूप से रखा जाएगा। प्रतिष्ठान आवधिक रूप से जब कभी केन्द्रीय भविष्य निधि आयुक्त/क्षेत्रीय भविष्य निधि आयुक्त द्वारा निदेश दिया जाए, सदस्यों के लेखों को इलैक्ट्रॉनिक रूप से सम्प्रेषित करेंगे।

14. न्यासी बोर्ड वर्ष में एक बार वित्तीय/लेखा वर्ष के समाप्त होने के छः माह के भीतर प्रत्येक कर्मचारी को निःशुल्क लेखों का वार्षिक विवरण अथवा पासबुक जारी करेगा। जब कभी सदस्य चाहें, अतिरिक्त प्रिंटऑफ नाममात्र के प्रभार के साथ उपलब्ध कराए जा सकते हैं। पासबुक के मामले में वह कर्मचारी के पास रहेंगी जिसे प्रस्तुत किए जाने पर न्यासियों द्वारा आवधिक रूप से अद्यतन किया जाएगा।

15. नियोक्ता सभी सदस्यों को उनकी आवश्यकतानुसार कम्प्यूटर टर्मिनलों से अपने खाते में पड़ी रोश राशि को देखने के समर्थ बनाने के लिए आवश्यक प्रावधान करेंगे।

16. न्यासी बोर्ड और नियोक्ता कर्मचारी भविष्य निधि संगठन द्वारा यथा विहित रूप में ये विवरणियां विनिर्दिष्ट समय सीमा के भीतर मासिक/वार्षिक रूप से दायर करेंगे, जिसे न करने पर इसे चूक माना जाएगा तथा न्यासी बोर्ड और नियोक्ता संयुक्त रूप से और अलग-अलग, कर्मचारी भविष्य निधि संगठन द्वारा की जाने वाली उपयुक्त दाण्डक कार्रवाई के भागी होंगे।

17. न्यासी बोर्ड समय-समय पर सरकार के निर्देशों के अनुसार भविष्य निधि के पैसे का निवेश करेगा। सरकार के निर्देशों के अनुसार निवेश करने में असफल होने पर न्यासी बोर्ड अलग-अलग और संयुक्त रूप से केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधि द्वारा यथा अधिरोपित अधिशुल्क का भागी बन जाएगा।

18.(क) प्रतिभूतियां न्यास के नाम से प्राप्त की जाएंगी। इस प्रकार प्राप्त की गई प्रतिभूतियां अभौतिक (डीमेट) रूप में होनी चाहिए तथा न्यास के कार्यचालित रहने वाले क्षेत्रों में अपेक्षित सुविधा के उपलब्ध न होने की स्थिति में न्यासी बोर्ड संबंधित क्षेत्रीय भविष्य निधि आयुक्त को इसकी सूचना देंगे।

(ख) न्यासी बोर्ड लिपि-वार रजिस्टर बनाएगा तथा ब्याज की समय पर उगाही सुनिश्चित करेगा।

(ग) डीमेट खाता इस संबंध में केन्द्रीय सरकार द्वारा जारी अनुदेशों के अनुसार भारतीय रिजर्व बैंक और केन्द्रीय

सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों के माध्यम से खोला जाए।

(घ) डीमेट खाते का खर्च न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाए। प्रतिभूतियों आदि की खरीद की दलाली जैसे निवेशों के सभी प्रकार के खर्चों को भी न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाएगा।

19. प्रतिभूतियों और बाण्डों की खरीद जैसे ऐसे निवेश भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों की सुरक्षा अभिरक्षा में दर्ज किए जाएं, जो इसके संरक्षक होंगे। स्थापना की बंदी या परिसमाप्त या कर्मचारी भविष्य निधि, 1952 से छूट पर यह संरक्षक, न्यास के नाम पर प्राप्त तथा अपने जमा में पड़े निवेश को संबंधित क्षेत्रीय भविष्य निधि आयुक्त के, इस आशय के अनुरोध पर संबंधित क्षेत्रीय भविष्य निधि आयुक्त को सीधे अंतरित करेंगे।

20. स्थापना संबंधित क्षेत्रीय भविष्य निधि आयुक्त को उन निक्षेपागार प्रतिभागियों (भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित) के विवरण से सूचित करेगी, जिसके पास तथा जिनकी सुरक्षा अभिरक्षा में न्यास के मान पर किए गए निवेश अर्थात् प्रतिभूतियों, बाण्डों आदि में किए गए निवेश दर्ज किए गए हैं। तथापि, न्यासी बोर्ड उस धनराशि की उगाही कर सकता है, जो दावों के निपटान, नियमानुसार अग्रिमों की मंजूरी और नियोक्ता की सेवा छोड़ने की स्थिति में सदस्य के भविष्य निधि संचयन के अंतरण और प्रतिभूतियों की बिक्री द्वारा अन्य किसी प्राप्तियों अथवा क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के शर्ताधीन निधि के नाम में पड़े अन्य निवेशों जैसे बाध्यकारी व्ययों को पूरा करने के लिए अपेक्षित होंगे।

21. न्यास द्वारा किए गए निवेशों के लिए किसी वित्तीय या अन्य संस्थाओं द्वारा दिए जाने वाले किसी कमीशन, प्रोत्साहन, बोनस या अन्य आर्थिक लाभ इसके खाते में डाले जाएं।

22. नियोक्ता और न्यासी बोर्ड के सदस्य शर्तों का पालन करने की सहमति देते हुए लिखित वचन देंगे तथा यह वैधिक रूप से नियोक्ता और न्यासी बोर्ड के उत्तराधिकारियों और समनुदेशियों पर उनके साथ-साथ बाध्यकारी होगा।

23. नियोक्ता और न्यासी बोर्ड छूट के रद्द होने कि स्थिति में संबंधित क्षेत्रीय भविष्य निधि आयुक्त द्वारा विहित समय सीमा के भीतर तत्काल निधियों का अंतरण करने के वचन भी देगा। यह उन पर कानूनी रूप से बाध्यकारी होगा तथा उन्हें निधियों के अंतरण में कोई विलंब होने की स्थिति में अभियोजन का भागी बनाएगा।

24.(क) न्यासी बोर्ड द्वारा अनुरक्षित भविष्य निधि खाता किसी योग्य स्वतंत्र चार्टर्ड लेखकार द्वारा वार्षिक रूप से लेखा-परीक्षा करने के शर्ताधीन होगा। जहां भी आवश्यक समझा जाए, वहां कर्मचारी भविष्य निधि संगठन को अधिकार होगा कि यह किसी अन्य योग्य लेखा-परीक्षक द्वारा खातों की लेखा-परीक्षा कराए तथा इस प्रकार हुए खर्च नियोक्ता द्वारा वहन किए जाएंगे।

- (ख) लेखा-परीक्षकों द्वारा वित्तीय वर्ष अर्थात् 1 अप्रैल से 31 मार्च तक की समाप्ति के बाद छह महीने के भीतर लेखा-परीक्षकों द्वारा वित्तीय वर्ष की जाए। तुलन-पत्र का प्रारूप और इस रिपोर्ट में प्रस्तुत की जाने वाली जानकारी कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित की जाएगी तथा संबंधित क्षेत्रीय भविष्य निधि आयुक्त के कार्यालय में इलैक्ट्रॉनिक प्रारूप के साथ हस्ताक्षरित प्रतिलिपि में उपलब्ध कराई जाएगी।
- (ग) एक ही लेखा-परीक्षकों को लगातार दो वर्ष के लिए तथा अगले वित्तीय वर्ष के पहले दिन से मिली छूट से अधिक के लिए नियुक्त ना किया जाए।
25. लगातार तीन वित्तीय वर्षों तक कोई हानि या पूँजी आधार में कटौती को अगले वित्तीय वर्ष के पहले दिन से मिली छूट प्राप्त होगी।
26. नियोक्ता प्रत्येक माह की समाप्ति से 15 दिन के भीतर निरीक्षण हेतु ऐसी सुविधाओं का प्रावधान करेगा तथा ऐसे निरीक्षण प्रभारों का भुगतान करेगा जो केन्द्रीय सरकार द्वारा अधिनियम की धारा 17 के उप-खण्ड (3) के खण्ड (क) के अंतर्गत समय-समय पर दिए निर्देशों के अनुसार हों।
27. न्यासी बोर्ड या नियोक्ता द्वारा छूट देने के लिए शर्तों के किसी उल्लंघन की स्थिति में दी गई छूट संबंधित व्यक्ति को इस संबंध में कारण बताओ नोटिस जारी करने के बाद रद्द कर दी जाएगी।
28. किसी भी धोखे, गबन, गलत निवेश निर्णयों आदि के फलस्वरूप ट्रस्ट को हुए किसी भी नुकसान की स्थिति में नियोक्ता नुकसान पूरा करने का भागी होगा।
29. किसी विलय, अविलय, अभिग्रहण, बिक्री, एकीकरण, सहायक कंपनी का गठन चाहे पूर्णतः स्वामित्व वाली हो या नहीं इत्यादी के फलस्वरूप यदि प्रतिष्ठान की कानूनी स्थिति में कोई भी बदलाव होता है तो दी गई छूट निरस्त होगी एवं प्रतिष्ठान को तुरंत नई छूट देने के लिए मामले की रिपोर्ट करनी चाहिए।
30. एक ही भविष्य निधि ट्रस्ट में एक से अधिक इकाई/प्रतिष्ठानों के भाग लेने की स्थिति में भाग लेने वाली इकाइयों के किसी भी ट्रस्टी/नियोक्ता द्वारा कोई भी चुक लेने पर भी ट्रस्टी संयुक्त रूप से अलग से जिम्मेदार/उत्तरदायी होंगे और आरपीएफसी आम भविष्य निधि ट्रस्ट के सभी न्यासियों के विरुद्ध उपयुक्त कानूनी कार्रवाई करेगा।
31. केन्द्र सरकार प्रतिष्ठान की छूट की निरंतरता के लिए शर्तों को बढ़ा सकती है और जब भी इनको संप्रेषित किया जाएगा ये प्रतिष्ठान इन अतिरिक्त शर्तों का अनुपालन करने के लिए बाध्य होंगे।

New Delhi, the 19th August, 2014

**S.O. 2244.**—Whereas M/s. Mount Shivalik Breweries Limited [under Code No. PN/4582 in Chandigarh Region] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of

Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions annexed with this notification, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-3-1988 until further notification.

[No. S-35015/52/2014-SS-II]

SUBHASH KUMAR, Under Secy.

#### ANNEXURE

#### CONDITIONS FOR GRANT OF EXEMPTION FROM THE PROVISIONS OF EMPLOYEES PROVIDENT FUND SCHEME, 1952

1. The employer shall establish a Board of Trustees under his Chairmanship for the management of the Provident Fund according to such directions as may be given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Funds Organisation, inter alia, for proper accounts of the receipts into and payment from the Provident Fund and the balance in their custody. For this purpose, the "employer" shall mean :

- (i) In relation to an establishment, which is a factory, the owner or occupier of the factory: and .
- (ii) In relation to any other establishment, the person who, or the authority, that has the ultimate control over the affairs of the establishment.

2. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner (CPFC) or an officer authorized by him.

3. All employees' as defined in Section 2(f) of the act, who have been eligible to become members of the Provident Fund had the establishment not been granted exemption, shall be enrolled as members.

4. Where an employee who is already a member of Employees' Provident fund or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund. The employer should also arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited into his account.

5. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and employees at the rate prescribed under the act from time to time by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of Section 7Q of the Act for any delay in payment of any dues towards the Board of Trustees.

6. The employer shall bear all the expenses of the administration of Provident Fund and also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.

7. Any deficiency in the interest declared by the Board of Trustees is to be made good by the employer to bring it up to the statutory limit.

8. The employer shall display on the notice board of the establishment, a copy of the rules of the funds as approved by the appropriate authority and as and when amended thereto along with a translation in the language of the majority of the employees.

9. The rate of contributions payable, the conditions and quantum of advances and other matters laid down under the provident fund rules of the establishment and the interest credited to the account of each member, calculated on the monthly running balance of the member and declared by the Board of Trustees shall not be lower than those declared by the Central government under the various provisions prescribed in the Act and Scheme framed thereunder.

10. Any amendment to the Scheme, which is more beneficial to the employees than the existing rules of the establishment, shall be made applicable to them automatically pending formal amendment of the Rules of the Trust.

11. No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner. The Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.

12. All claims for withdrawals, advances and transfers should be settled expeditiously, within the maximum time frame prescribed by the Employees' Provident Fund Organisation.

13. The Board of Trustees shall maintain detailed accounts to show the contributions credited withdrawal and interest in respect of each employee. The maintenance of such records should preferably be done electronically. The establishments should periodically transmit the details of members' accounts electronically as and when directed by the Central Provident Commissioner/Regional Provident Fund Commissioner.

14. The Board of Trustees shall issue an annual statement of accounts or pass books to every employee within six months of the close of financial/accounting year free of cost once in the year. Additional printouts can be made available as and when the members want, subject to nominal charges. In case of passbook, the same shall remain in custody of employee to be updated periodically by the Trustees when presented to them.

15. The employer shall make necessary provisions to enable all the members to be able to see their account balance from the computer terminals as and when required by them.

16. The Board of Trustees and the employer shall file such returns monthly/annually as may be prescribed by the Employees' Provident Fund Organisation within the specified time limit, failing which it will be deemed as a default and the Board of Trustees and employer will jointly and separately be liable for suitable penal action by the Employees' Provident Fund Organisation.

17. The Board of Trustees shall invest the monies of the provident fund as per the directions of the Government from time to time. Failure to make investments as per directions of the Government shall make the Board of Trustees separately and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

18. (a) The securities shall be obtained in the name of Trust. The securities so obtained should be in dematerialized (DEMAT) form and in case the required facility is not available in the areas where the trust operates the Board of Trustees shall inform the Regional Provident Fund Commissioner concerned about the same.
- (b) The Board of Trustees shall maintain a script wise register and ensure timely realization of interest.
- (c) The DEMAT Account should be opened through depository participants approved by Reserve Bank of India and Central Government in accordance with the instructions issued by the Central Government in this regard.
- (d) The cost of maintaining DEMAT account should be treated as incidental cost of investment by the Trust. Also all types of cost of investments like brokerage for purchase of securities etc. shall be treated as incidental cost of investment by the Trust.

19. All such investments made like purchase of securities and bonds, should be lodged in the safe custody of depository participants approved by Reserve Bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952 such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the Regional PF Commissioner concerned directly on receipt of request from the Regional PF Commissioner concerned to that effect.

20. The establishment shall intimate to the Regional P.F. Commissioner concerned the details of depository participants (approved by RBI and Central Government), with whom and in whose safe custody, the investments made in the name of trust, viz., investments made in securities, bonds, etc. have been lodged. However, the Board of Trustees may raise such sum of sums of money as may be required for meeting obligatory expenses such as settlement of claims, grant of advances as per rules and transfer of member's PF accumulations in the event of his/her leaving service of the employer and any other receipts by sale of the securities or other investments standing in the name of the Fund subject to the prior approval of the Regional PF Commissioner.

21. Any commission, incentive, bonus or other pecuniary rewards given by any financial or other institutions for the investments made by the Trust should be credited to its account.

22. The employer and the members of the Board of Trustees, shall furnish a written undertaking agreeing to abide by the conditions and this shall be legally binding on the employer and the Board of Trustees, including their successors and assignees.

23. The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the event of cancellation of relaxation. This shall be legally binding on them and will make them liable for prosecution in the event of any delay in the transfer of funds.

24. (a) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent chartered accountant annually. Where considered necessary the EPFO shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

(b) A copy of the Auditor's report alongwith the audited balance sheet should be submitted to this office by the Auditors directly within six months after the closing of the financial year from 1st April to 31st March. The format of the balance sheet and the information to be furnished in the report shall be prescribed by the Employees'

Provident fund Organisation and made available with the RPFC office in electronic format as well as a signed hard copy.

(c) The same auditors should not be appointed for two consecutive years and not more than the relaxation withdrawn from the first day of the next succeeding financial year.

25. Any loss for the three consecutive financial years or erosion in the capital base shall have the relaxation withdrawn from the first day of the next succeeding financial year.

26. The employer shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of Section 17 of the Act within 15 days from the close of every month.

27. In the event of any violation of the conditions for grant of relaxation, by the employer or the Board of Trustees, the relaxation granted shall be cancelled after issuing a show cause notice in this regard to the concerned persons.

28. In the event of any loss to the trust as a result of any fraud, defalcation, wrong investment decisions etc. the employer shall be liable to make good the loss.

29. In case of any change of legal status of the establishment as a result of merger, de-merger, acquisition, sale, amalgamation, formation of a subsidiary, whether wholly owned or not etc., the relaxation granted shall stand revoked and the establishment should promptly report the matter for grant of fresh relaxation.

30. In case there are more than one unit/establishment participating in the common Provident Fund Trust, all the trustees shall be jointly' and separately liable/responsible for any default committed by any of the trustees/employer of any of the participating units and the RPFC shall take suitable legal action against all the trustees of the common Provident Fund Trust.

31. The Central Government may lay down further conditions for continuation of exemption of the establishment and the establishment shall be bound to comply with these additional conditions as and when the same are communicated.

नई दिल्ली, 19 अगस्त, 2014

**का.आ. 2245.—जबकि मैसर्स एल एण्ड टी टेक्नॉलोजी सर्विसेज लिमिटेड (कोड संख्या एमएच/टीएचएन/206170 के अंतर्गत थाणे क्षेत्रीय कार्यालय में) (एतदुपरांत प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।**

2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कर्मचारियों के लिए कम उपयुक्त नहीं है और कर्मचारी सदृश स्वरूप के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में उक्त अधिनियम अथवा कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरांत योजना के रूप में संदर्भित) के अंतर्गत उपलब्ध अन्य भविष्य निधि प्रसुविधाओं का भी लाभ उठा रहे हैं।

3. अतः, अब, केन्द्र सरकार उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना के साथ संलग्न शर्तों के अध्याधीन, एतद्वारा उक्त योजना के सभी उपबंधों के प्रचालन से 1-1-2014 से अगले अधिसूचना तक उक्त प्रतिष्ठान को छूट प्रदान करती है।

[सं. एस-35015/74/2014-एसएस-II]

सुभाष कुमार, अवर सचिव

### अनुबंध

#### कर्मचारी भविष्य निधि योजना, 1952 के उपबंधों से छूट प्रदान करने संबंधी शर्तें

1. नियोक्ता समय-समय पर केन्द्रीय सरकार अथवा केन्द्रीय भविष्य निधि आयुक्त, जैसी भी स्थिति हो, द्वारा दिए जाने वाले ऐसे निदेशों के अनुसार भविष्य निधि के प्रबंधन हेतु अपनी अध्यक्षता में एक न्यासी बोर्ड गठित करेगा। भविष्य निधि न्यासी बोर्ड में विहित होगी जो अन्य बातों के साथ-साथ कर्मचारी भविष्य निधि संगठन के प्रति भविष्य निधि में प्राप्तियों और उसमें से भुगतान के उचित लेखों और उनकी अभिरक्षा में शेष राशि के लिए उत्तरदायी होगा। इस प्रयोजनार्थ, “नियोक्ता” से :—

- (i) किसी प्रतिष्ठान, जो एक कारखाना हो, उसके संबंध में, कारखाने का स्वामी अथवा अधिष्ठाता अभिप्रेत होगा; और
- (ii) किसी अन्य प्रतिष्ठान के संबंध में, वह व्यक्ति, अथवा प्राधिकारी अभिप्रेत होगा, जिसका उस प्रतिष्ठान के कामकाज पर अंतिम नियंत्रण हो।

2. न्यासी बोर्ड हरेक तिमाही में कम से कम एक बार बैठक करेगा और वह केन्द्र सरकार/केन्द्रीय भविष्य निधि आयुक्त (सीपीएफसी) अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय-समय पर जारी किए जाने वाले दिशानिर्देशों के अनुसार कार्य करेगा।

3. अधिनियम की धारा 2(च) में यथा परिभाषित सभी कर्मचारी, जो भविष्य निधि के सदस्य बनने के पात्र रहे हैं; यदि प्रतिष्ठान को छूट प्रदान नहीं की होती, उन्हें सदस्यों के रूप में नामांकित किया जाएगा।

4. जहां कोई कर्मचारी जो पहले ही किसी अन्य छूट-प्राप्त प्रतिष्ठान के किसी कर्मचारी भविष्य निधि अथवा भविष्य निधि का सदस्य हो, उसे उसके प्रतिष्ठान में नियोजित किया जाता है, तो नियोक्ता उसे तत्काल निधि के सदस्य के रूप में नामांकित करेगा।

नियोक्ता ऐसे कर्मचारी के भविष्य निधि खाते में उसके पहले नियोक्ता से संचय राशियां अंतरित और जमा करवाने की भी व्यवस्था करेगा।

5. नियोक्ता भविष्य निधि को उसके द्वारा और कर्मचारी के द्वारा समय-समय पर अधिनियम के अंतर्गत निर्धारित दर से देय अंशदान को, जिस माह के लिए अंशदान देय हों उसके बाद के माह की 15 तारीख तक न्यासी बोर्ड को अंतरित करेगा। नियोक्ता न्यासी बोर्ड को किन्हीं देवों के भुगतान में किसी विलम्ब के लिए अधिनियम की धारा 7 के उपबंधों के अनुसार साधारण ब्याज अदा करने का दायी होगा।

6. नियोक्ता भविष्य निधि के प्रशासन के सभी व्यय वहन करेगा और चोरी, डकैती, गबन, दुर्विनियोग अथवा किसी अन्य कारण से भविष्य निधि को हो सकने वाले किसी घाटे की भी भरपाई करेगा।

7. न्यासी बोर्ड द्वारा घोषित ब्याज में किसी कमी को भी नियोक्ता द्वारा पूरा किया जाना होगा और उसे संविधिक सीमा तक लाना होगा।

8. नियोक्ता जब कभी नियम संशोधित किए जाएं, समुचित प्राधिकारी द्वारा यथा अनुमोदित, निधि के नियमों की एक प्रति अधिसंख्यक कर्मचारियों की भाषा में उनके अनुवाद सहित प्रतिष्ठान के सूचना पट पर प्रदर्शित करेगा।

9. प्रतिष्ठान के भविष्य निधि नियमों के अंतर्गत निर्धारित देय अंशदान की दर, अग्रिम की शर्तें और मात्रा तथा अन्य मामले और सदस्य के मासिक चालू शेष पर संगणित और न्यासी बोर्ड द्वारा घोषित, प्रत्येक सदस्य के खाते में जमा किया गया ब्याज, अधिनियम और उसके अंतर्गत निर्मित योजना में निर्धारित विभिन्न उपबंधों के अंतर्गत केन्द्र सरकार द्वारा घोषित दर से कम नहीं होगा।

10. योजना में कोई संशोधन, जो प्रतिष्ठान के विद्यमान नियमों की तुलना में कर्मचारियों के लिए अधिक लाभदायक हो, उसे न्यास के नियमों में औपचारिक संशोधन के लंबित रहते उन पर स्वतः लागू किया जाएगा।

11. नियोक्ता द्वारा नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के बिना नहीं किया जाएगा। क्षेत्रीय भविष्य निधि आयुक्त अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना रुख स्पष्ट करने का वाजिब अवसर देगा।

12. निकासी, अग्रिम और अंतरण के सभी दावे कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित अधिकतम समय सीमा के भीतर, शीघ्रता से निपटाए जाएंगे।

13. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किए गए अंशदान, निकासी और ब्याज दर्शने के लिए विस्तरित लेखों का रख-रखाव करेगा। ऐसे अभिलेखों का रख-रखाव अधिमानतः इलैक्ट्रॉनिक रूप से रखा जाएगा। प्रतिष्ठान आवधिक रूप से जब कभी केन्द्रीय भविष्य निधि आयुक्त/क्षेत्रीय भविष्य निधि आयुक्त द्वारा निदेश दिया जाए, सदस्यों के लेखों को इलैक्ट्रॉनिक रूप से सम्प्रेषित करेंगे।

14. न्यासी बोर्ड वर्ष में एक बार वित्तीय/लेखा वर्ष के समाप्त होने के छः माह के भीतर प्रत्येक कर्मचारी को निःशुल्क लेखों का वार्षिक विवरण अथवा पासबुक जारी करेगा। जब कभी सदस्य चाहें, अतिरिक्त प्रिंटआउट नाममात्र के प्रभार के साथ उपलब्ध कराए जा सकते हैं। पासबुक के मामले में वह कर्मचारी के पास रहेगी जिसे प्रस्तुत किए जाने पर न्यासियों द्वारा आवधिक रूप से अद्यतन किया जाएगा।
15. नियोक्ता सभी सदस्यों को उनकी आवश्यकतानुसार कम्प्यूटर टर्मिनलों से अपने खाते में पड़ी शेष राशि को देखने के समर्थ बनाने के लिए आवश्यक प्रावधान करेंगे।
16. न्यासी बोर्ड और नियोक्ता कर्मचारी भविष्य निधि संगठन द्वारा यथा विहित रूप में ये विवरणियां विनिर्दिष्ट समय सीमा के भीतर मासिक/वार्षिक रूप से दायर करेंगे, जिसे न करने पर इसे चूक माना जाएगा तथा न्यासी बोर्ड और नियोक्ता संयुक्त रूप से और अलग-अलग, कर्मचारी भविष्य निधि संगठन द्वारा की जाने वाली उपयुक्त दाण्डक कारवाई के भागी होंगे।
17. न्यासी बोर्ड समय-समय पर सरकार के निर्देशों के अनुसार भविष्य निधि के पैसे का निवेश करेगा। सरकार के निर्देशों के अनुसार निवेश करने में असफल होने पर न्यासी बोर्ड अलग-अलग और संयुक्त रूप से केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधि द्वारा यथा अधिरेपित अधिशुल्क का भागी बन जाएगा।
- 18.(क) प्रतिभूतियां न्यास के नाम से प्राप्त की जाएंगी। इस प्रकार प्राप्त की गई प्रतिभूतियां अभौतिक (डीमेट) रूप में होनी चाहिए तथा न्यास के कार्यचालित रहने वाले क्षेत्रों में अपेक्षित सुविधा के उपलब्ध न होने की स्थिति में न्यासी बोर्ड संबंधित क्षेत्रीय भविष्य निधि आयुक्त को इसकी सूचना देंगे।
- (ख) न्यासी बोर्ड लिपि-वार रजिस्टर बनाएगा तथा ब्याज की समय पर उगाही सुनिश्चित करेगा।
- (ग) डीमेट खाता इस संबंध में केन्द्रीय सरकार द्वारा जारी अनुदेशों के अनुसार भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों के माध्यम से खोला जाए।
- (घ) डीमेट खाते का खर्च न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाए। प्रतिभूतियों आदि की खरीद की दलाली जैसे निवेशों के सभी प्रकार के खर्चों को भी न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाएगा।
19. प्रतिभूतियों और बाण्डों की खरीद जैसे ऐसे निवेश भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों की सुरक्षा अभिरक्षा में दर्ज किए जाएं, जो इसके संरक्षक होंगे। स्थापना की बंदी या परिसमापन या कर्मचारी भविष्य निधि, 1952 से छूट पर यह संरक्षक, न्यास के नाम पर प्राप्त तथा अपने जमा में पड़े निवेश को संबंधित क्षेत्रीय भविष्य निधि आयुक्त के, इस आशय के अनुरोध पर संबंधित क्षेत्रीय भविष्य निधि आयुक्त को सीधे अंतरित करेगा।
20. स्थापना संबंधित क्षेत्रीय भविष्य निधि आयुक्त को उन निक्षेपागार प्रतिभागियों (भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित) के विवरण से सूचित करेगी, जिरके पास तथा जिनकी सुरक्षा अभिरक्षा में न्यास के मान पर किए गए निवेश अर्थात् प्रतिभूतियों, बाण्डों आदि में किए गए निवेश दर्ज किए गए हैं। तथापि, न्यासी बोर्ड उस धनराशि की उगाही कर सकता है, जो दावों के निपटान, नियमानुसार अग्रिमों की मंजूरी और नियोक्ता की सेवा छोड़ने की स्थिति में सदस्य के भविष्य निधि संचयन के अंतरण और प्रतिभूतियों की बिक्री द्वारा अन्य किसी प्राप्तियों अथवा क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के शर्ताधीन निधि के नाम में पड़े अन्य निवेशों जैसे बाध्यकारी व्ययों को पूरा करने के लिए अपेक्षित हों।
21. न्यास द्वारा किए गए निवेशों के लिए किसी वित्तीय या अन्य संस्थाओं द्वारा दिए जाने वाले किसी कमीशन, प्रोत्साहन, बोनस या अन्य आर्थिक लाभ इसके खाते में डाले जाएं।
22. नियोक्ता और न्यासी बोर्ड के सदस्य शर्तों का पालन करने की सहमति देते हुए लिखित वचन देंगे तथा यह वैधिक रूप से नियोक्ता और न्यासी बोर्ड के उत्तराधिकारियों और समनुदेशितों पर उनके साथ-साथ बाध्यकारी होगा।
23. नियोक्ता और न्यासी बोर्ड छूट के रद्द होने कि स्थिति में संबंधित क्षेत्रीय भविष्य निधि आयुक्त द्वारा विहित समय सीमा के भीतर तत्काल निधियों का अंतरण करने के वचन भी देगा। यह उन पर कानूनी रूप से बाध्यकारी होगा तथा उन्हें निधियों के अंतरण में कोई विलंब होने की स्थिति में अभियोजन का भागी बनाएगा।
- 24.(क) न्यासी बोर्ड द्वारा अनुरक्षित भविष्य निधि खाता किसी योग्य स्वतंत्र चार्टर्ड लेखकार द्वारा वार्षिक रूप से लेखा-परीक्षा करने के शर्ताधीन होगा। जहां भी आवश्यक समझा जाए, वहां कर्मचारी भविष्य निधि संगठन को अधिकार होगा कि यह किसी अन्य योग्य लेखा-परीक्षक द्वारा खातों की लेखा-परीक्षा कराए तथा इस प्रकार हुए खर्च नियोक्ता द्वारा वहन किए जाएंगे।
- (ख) लेखा-परीक्षकों द्वारा वित्तीय वर्ष अर्थात् 1 अप्रैल से 31 मार्च तक की समाप्ति के बाद छह महीने के भीतर लेखा-परीक्षीत तुलन-पत्र सहित लेखा-परीक्षक की रिपोर्ट की प्रति सीधे इस कार्यालय में प्रस्तुत की जाए। तुलन-पत्र का प्रारूप और इस रिपोर्ट में प्रस्तुत की जाने वाली जानकारी कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित की जाएगी तथा संबंधित क्षेत्रीय भविष्य निधि आयुक्त के कार्यालय में इलैक्ट्रॉनिक प्रारूप के साथ हस्ताक्षरित प्रतिलिपि में उपलब्ध कराई जाएगी।
- (ग) एक ही लेखा-परीक्षकों को लगातार दो वर्ष के लिए तथा अगले वित्तीय वर्ष के पहले दिन से मिली छूट से अधिक के लिए नियुक्त ना किया जाए।
25. लगातार तीन वित्तीय वर्षों तक कोई हानि या पूँजी आधार में कटौती को अगले वित्तीय वर्ष के पहले दिन से मिली छूट प्राप्त होगी।

26. नियोक्ता प्रत्येक माह की समाप्ति से 15 दिन के भीतर निरीक्षण हेतु ऐसी सुविधाओं का प्रावधान करेगा तथा ऐसे निरीक्षण प्रभारों का भुगतान करेगा जो केन्द्रीय सरकार द्वारा अधिनियम की धारा 17 के उप-खण्ड (3) के खण्ड (क) के अंतर्गत समय-समय पर दिए निर्देशों के अनुसार हों।
27. च्यासी बोर्ड या नियोक्ता द्वारा छूट देने के लिए शर्तों के किसी उल्लंघन की स्थिति में दी गई छूट संबंधित व्यक्ति को इस संबंध में कारण बताओ नोटिस जारी करने के बाद रद्द कर दी जाएगी।
28. किसी भी धोखे, गबन, गलत निवेश निर्णयों आदि के फलस्वरूप ट्रस्ट को हुए किसी भी नुकसान की स्थिति में नियोक्ता नुकसान पूरा करने का भागी होगा।
29. किसी विलय, अविलय, अभिग्रहण, बिक्री, एकीकरण, सहायक कंपनी का गठन चाहे पूर्णतः स्वामित्व वाली हो या नहीं इत्यादी के फलस्वरूप यदि प्रतिष्ठान की कानूनी स्थिति में कोई भी बदलाव होता है तो दी गई छूट निरस्त होगी एवं प्रतिष्ठान को तुरंत नई छूट देने के लिए मामले की रिपोर्ट करनी चाहिए।
30. एक ही भविष्य निधि ट्रस्ट में एक से अधिक इकाई/प्रतिष्ठानों के भाग लेने की स्थिति में भाग लेने वाली इकाइयों के किसी भी ट्रस्टी/नियोक्ता द्वारा कोई भी चूक होने पर भी ट्रस्टी संयुक्त रूप से अलग से जिम्मेदार/उत्तरदायी होंगे और आरपीएफसी आम भविष्य निधि ट्रस्ट के सभी न्यासियों के विरुद्ध उपयुक्त कानूनी कार्रवाई करेगा।
31. केन्द्र सरकार प्रतिष्ठान की छूट की निरंतरता के लिए शर्तों को बढ़ा सकती है और जब भी इनको संप्रेषित किया जाएगा ये प्रतिष्ठान इन अतिरिक्त शर्तों का अनुपालन करने के लिए बाध्य होंगे।

New Delhi, the 19th August, 2014

**S.O. 2245.**—Whereas M/s. L&T Technology Services Limited [under Code No. MH/THN/206170 in Regional Office, Thane] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions annexed with this notification, the Central Government, hereby, exempts the said establishment from the operation of all the provisions

of the said Scheme with effect from 1-1-2014 until further notification.

[No. S-35015/74/2014-SS-II]

SUBHASH KUMAR, Under Secy.

#### ANNEXURE

#### CONDITIONS FOR GRANT OF EXEMPTION FROM THE PROVISIONS OF EMPLOYEES PROVIDENT FUND SCHEME, 1952

1. The employer shall establish a Board of Trustees under his Chairmanship for the management of the Provident Fund according to such directions as may be given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Funds Organisation, inter alia, for proper accounts of the receipts into and payment from the Provident Fund and the balance in their custody. For this purpose, the "employer" shall mean :

- (i) In relation to an establishment, which is a factory, the owner or occupier of the factory: and .
- (ii) In relation to any other establishment, the person who, or the authority, that has the ultimate control over the affairs of the establishment.

2. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner (CPFC) or an officer authorized by him.

3. All employees' as defined in Section 2(f) of the act, who have been eligible to become members of the Provident Fund had the establishment not been granted exemption, shall be enrolled as members.

4. Where an employee who is already a member of Employees' Provident fund or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund. The employer should also arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited into his account.

5. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and employees at the rate prescribed under the act from time to time by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of Section 7Q of the Act for any delay in payment of any dues towards the Board of Trustees.

6. The employer shall bear all the expenses of the administration of Provident Fund and also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.

7. Any deficiency in the interest declared by the Board of Trustees is to be made good by the employer to bring it up to the statutory limit.

8. The employer shall display on the notice board of the establishment, a copy of the rules of the funds as approved by the appropriate authority and as and when amended thereto along with a translation in the language of the majority of the employees.

9. The rate of contributions payable, the conditions and quantum of advances and other matters laid down under the provident fund rules of the establishment and the interest credited to the account of each member, calculated on the monthly running balance of the member and declared by the Board of Trustees shall not be lower than those declared by the Central Government under the various provisions prescribed in the Act and Scheme framed thereunder.

10. Any amendment to the Scheme, which is more beneficial to the employees than the existing rules of the establishment, shall be made applicable to them automatically pending formal amendment of the Rules of the Trust.

11. No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner. The Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.

12. All claims for withdrawals, advances and transfers should be settled expeditiously, within the maximum time frame prescribed by the Employees' Provident Fund Organisation.

13. The Board of Trustees shall maintain detailed accounts to show the contributions credited withdrawal and interest in respect of each employee. The maintenance of such records should preferably be done electronically. The establishments should periodically transmit the details of members' accounts electronically as and when directed by the Central Provident Commissioner/Regional Provident Fund Commissioner.

14. The Board of Trustees shall issue an annual statement of accounts or pass books to every employee within six months of the close of financial/accounting year free of cost once in the year. Additional printouts can be made available as and when the members want, subject to nominal charges. In case of passbook, the same shall remain in custody of employee to be updated periodically by the Trustees when presented to them.

15. The employer shall make necessary provisions to enable all the members to be able to see their account balance from the computer terminals as and when required by them.

16. The Board of Trustees and the employer shall file such returns monthly/annually as may be prescribed by the Employees' Provident Fund Organisation within the specified time limit, failing which it will be deemed as a default and the Board of Trustees and employer will jointly and separately be liable for suitable penal action by the Employees' Provident Fund Organisation.

17. The Board of Trustees shall invest the monies of the provident fund as per the directions of the Government from time to time. Failure to make investments as per directions of the Government shall make the Board of Trustees separately and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

18. (a) The securities shall be obtained in the name of Trust. The securities so obtained should be in dematerialized (DEMAT) form and in case the required facility is not available in the areas where the trust operates the Board of Trustees shall inform the Regional Provident Fund Commissioner concerned about the same.

(b) The Board of Trustees shall maintain a script wise register and ensure timely realization of interest.

(c) The DEMAT Account should be opened through depository participants approved by Reserve Bank of India and Central Government in accordance with the instructions issued by the Central Government in this regard.

(d) The cost of maintaining DEMAT account should be treated as incidental cost of investment by the Trust. Also all types of cost of investments like brokerage for purchase of securities etc. shall be treated as incidental cost of investment by the Trust.

19. All such investments made like purchase of securities and bonds, should be lodged in the safe custody of depository participants approved by Reserve Bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952 such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the Regional PF Commissioner concerned directly on receipt of request from the Regional PF Commissioner concerned to that effect.

20. The establishment shall intimate to the Regional P.F. Commissioner concerned the details of depository participants (approved by RBI and Central Government), with whom and in whose safe custody, the investments made in the name of trust, viz., investments made in securities, bonds, etc. have been lodged. However, the Board of Trustees may raise such sum of sums of money as may be required for meeting obligatory expenses such as settlement of claims, grant of advances as per rules and

transfer of member's PF accumulations in the event of his/her leaving service of the employer and any other receipts by sale of the securities or other investments standing in the name of the Fund subject to the prior approval of the Regional PF Commissioner.

21. Any commission, incentive, bonus or other pecuniary rewards given by any financial or other institutions for the investments made by the Trust should be credited to its account.

22. The employer and the members of the Board of Trustees, shall furnish a written undertaking agreeing to abide by the conditions and this shall be legally binding on the employer and the Board of Trustees, including their successors and assignees.

23. The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the event of cancellation of relaxation. This shall be legally binding on them and will make them liable for prosecution in the event of any delay in the transfer of funds.

24. (a) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent chartered accountant annually. Where considered necessary the EPFO shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

(b) A copy of the Auditor's report alongwith the audited balance sheet should be submitted to this office by the Auditors directly within six months after the closing of the financial year from 1st April to 31st March. The format of the balance sheet and the information to be furnished in the report shall be prescribed by the Employees' Provident fund Organisation and made available with the RPFC office in electronic format as well as a signed hard copy.

(c) The same auditors should not be appointed for two consecutive years and not more than the relaxation withdrawn from the first day of the next succeeding financial year.

25. Any loss for the three consecutive financial years or erosion in the capital base shall have the relaxation withdrawn from the first day of the next succeeding financial year.

26. The employer shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of Section 17 of the Act within 15 days from the close of every month.

27. In the event of any violation of the conditions for grant of relaxation, by the employer or the Board of

Trustees, the relaxation granted shall be cancelled after issuing a show cause notice in this regard to the concerned persons.

28. In the event of any loss to the trust as a result of any fraud, defalcation, wrong investment decisions etc. the employer shall be liable to make good the loss.

29. In case of any change of legal status of the establishment as a result of merger, de-merger, acquisition, sale, amalgamation, formation of a subsidiary, whether wholly owned or not etc., the relaxation granted shall stand revoked and the establishment should promptly report the matter for grant of fresh relaxation.

30. In case there are more than one unit/establishment participating in the common Provident Fund Trust, all the trustees shall be jointly and separately liable/responsible for any default committed by any of the trustees/employer of any of the participating units and the RPFC shall take suitable legal action against all the trustees of the common Provident Fund Trust.

31. The Central Government may lay down further conditions for continuation of exemption of the establishment and the establishment shall be bound to comply with these additional conditions as and when the same are communicated.

नई दिल्ली, 19 अगस्त, 2014

**का.आ. 2246.—जबकि मैसर्स एलएण्डटी गल्फ प्राइवेट लिमिटेड (कोड संख्या एमएच/202493 के अंतर्गत क्षेत्रीय कार्यालय, थाणे में) (एतदुपरांत प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।**

2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कर्मचारियों के लिए कम उपयुक्त नहीं है और कर्मचारी सदृश स्वरूप के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में उक्त अधिनियम अथवा कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरांत योजना के रूप में संदर्भित) के अंतर्गत उपलब्ध अन्य भविष्य निधि प्रसुविधाओं का भी लाभ उठा रहे हैं।

3. अतः, अब, केन्द्र सरकार उक्त अधिनियम की धारा 17 की उप धारा (1) के खण्ड (क) अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना के साथ संलग्न शर्तों के अध्याधीन, एतद्वारा उक्त योजना के सभी उपबंधों के प्रचालन से 1-4-2009 से अगले अधिसूचना तक उक्त प्रतिष्ठान को छूट प्रदान करती है।

[सं. एस-35015/47/2014-एसएस-II]

सुभाष कुमार, अवर सचिव

### अनुबंध

#### कर्मचारी भविष्य निधि योजना, 1952 के उपबंधों से छूट प्रदान करने संबंधी शर्तें

1. नियोक्ता समय-समय पर केन्द्रीय सरकार अथवा केन्द्रीय भविष्य निधि आयुक्त, जैसी भी स्थिति हो, द्वारा दिए जाने वाले ऐसे निदेशों के अनुसार भविष्य निधि के प्रबंधन हेतु अपनी अध्यक्षता में एक न्यासी बोर्ड गठित करेगा। भविष्य निधि न्यासी बोर्ड में विहित होगी जो अन्य बातों के साथ-साथ कर्मचारी भविष्य निधि संगठन के प्रति भविष्य निधि में प्रतियों और उसमें से भुगतान के उचित लेखों और उनकी अभिरक्षा में शेष राशि के लिए उत्तरदायी होगा। इस प्रयोजनार्थ, “नियोक्ता” से :

- (i) किसी प्रतिष्ठान, जो एक कारखाना हो, उसके संबंध में, कारखाने का स्वामी अथवा अधिष्ठाता अभिप्रेत होगा; और
- (ii) किसी अन्य प्रतिष्ठान के संबंध में, वह व्यक्ति, अथवा प्राधिकारी अभिप्रेत होगा, जिसका उस प्रतिष्ठान के कामकाज पर अंतिम नियंत्रण हो।

2. न्यासी बोर्ड हरेक तिमाही में कम से कम एक बार बैठक करेगा और वह केन्द्र सरकार/केन्द्रीय भविष्य निधि आयुक्त (सीपीएफसी) अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय-समय पर जारी किए जाने वाले दिशानिर्देशों के अनुसार कार्य करेगा।

3. अधिनियम की धारा 2(च) में यथा परिभृष्ट सभी कर्मचारी, जो भविष्य निधि के सदस्य बनने के पात्र रहे हैं; यदि प्रतिष्ठान को छूट प्रदान नहीं की होती, उन्हें सदस्यों के रूप में नामांकित किया जाएगा।

4. जहां कोई कर्मचारी जो पहले ही किसी अन्य छूट-प्राप्त प्रतिष्ठान के किसी कर्मचारी भविष्य निधि अथवा भविष्य निधि का सदस्य हो, उसे उसके प्रतिष्ठान में नियोजित किया जाता है, तो नियोक्ता उसे तत्काल निधि के सदस्य के रूप में नामांकित करेगा। नियोक्ता ऐसे कर्मचारी के भविष्य निधि खाते में उसके पहले नियोक्ता से संचय राशियां अंतरित और जमा करवाने की भी व्यवस्था करेगा।

5. नियोक्ता भविष्य निधि को उसके द्वारा और कर्मचारी के द्वारा समय-समय पर अधिनियम के अंतर्गत निर्धारित दर से देय अंशदान को, जिस माह के लिए अंशदान देय हों उसके बाद के माह की 15 तारीख तक न्यासी बोर्ड को अंतरित करेगा। नियोक्ता न्यासी बोर्ड को किन्हीं देयों के भुगतान में किसी विलम्ब के लिए अधिनियम की धारा 7 के उपबंधों के अनुसार साधारण व्याज अदा करने का दायी होगा।

6. नियोक्ता भविष्य निधि के प्रशासन के सभी व्यय वहन करेगा और चोरी, डकैती, गबन, दुर्विनियोग अथवा किसी अन्य कारण से भविष्य निधि को हो सकने वाले किसी घाटे की भी भरपाई करेगा।

7. न्यासी बोर्ड द्वारा घोषित व्याज में किसी कमी को भी नियोक्ता द्वारा पूरा किया जाना होगा और उसे सांविधिक सीमा तक लाना होगा।

8. नियोक्ता जब कभी नियम संशोधित किए जाएं, समुचित प्राधिकारी द्वारा यथा अनुमोदित, निधि के नियमों की एक प्रति अधिसंख्यक कर्मचारियों की भाषा में उनके अनुवाद सहित प्रतिष्ठान के सूचना पट पर प्रदर्शित करेगा।

9. प्रतिष्ठान के भविष्य निधि नियमों के अंतर्गत निर्धारित देय अंशदान की दर, अग्रिम की शर्तें और मात्रा तथा अन्य मामले और सदस्य के मासिक चालू शेष पर संगणित और न्यासी बोर्ड द्वारा घोषित, प्रत्येक सदस्य के खाते में जमा किया गया व्याज, अधिनियम और उसके अंतर्गत निर्मित योजना में निर्धारित विभिन्न उपबंधों के अंतर्गत केन्द्र सरकार द्वारा घोषित दर से कम नहीं होगा।

10. योजना में कोई संशोधन, जो प्रतिष्ठान के विद्यमान नियमों की तुलना में कर्मचारियों के लिए अधिक लाभदायक हो, उसे न्यास के नियमों में औपचारिक संशोधन के लंबित रहते उन पर स्वतः लागू किया जाएगा।

11. नियोक्ता द्वारा नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के बिना नहीं किया जाएगा। क्षेत्रीय भविष्य निधि आयुक्त अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना रुख स्पष्ट करने का वाजिब अवसर देगा।

12. निकासी, अग्रिम और अंतरण के सभी दावे कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित अधिकतम समय सीमा के भीतर, शीघ्रता से निपटाए जाएंगे।

13. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किए गए अंशदान, निकासी और व्याज दर्शाने के लिए विस्तरित लेखों का रख-रखाव करेगा। ऐसे अभिलेखों का रख-रखाव अधिमानतः इलैक्ट्रोनिक रूप से रखा जाएगा। प्रतिष्ठान आवधिक रूप से जब कभी केन्द्रीय भविष्य निधि आयुक्त/क्षेत्रीय भविष्य निधि आयुक्त द्वारा निदेश दिया जाए, सदस्यों के लेखों को इलैक्ट्रॉनिक रूप से सम्प्रेषित करेंगे।

14. न्यासी बोर्ड वर्ष में एक बार वित्तीय/लेखा वर्ष के समाप्त होने के छः माह के भीतर प्रत्येक कर्मचारी को निःशुल्क लेखों का वार्षिक विवरण अथवा पासबुक जारी करेगा। जब कभी सदस्य चाहें, अतिरिक्त प्रिंटऑफ नाममात्र के प्रभार के साथ उपलब्ध कराए जा सकते हैं। पासबुक के मामले में वह कर्मचारी के पास रहेगी जिसे प्रस्तुत किए जाने पर न्यासियों द्वारा आवधिक रूप से अद्यतन किया जाएगा।

15. नियोक्ता सभी सदस्यों को उनकी आवश्यकतानुसार कम्प्यूटर टर्मिनलों से अपने खाते में पड़ी शेष राशि को देखने के समर्थ बनाने के लिए आवश्यक प्रावधान करेंगे।

16. न्यासी बोर्ड और नियोक्ता कर्मचारी भविष्य निधि संगठन द्वारा यथा विहित रूप में ये विवरणियां विनिर्दिष्ट समय सीमा के भीतर मासिक/वार्षिक रूप से दायर करेंगे, जिसे न करने पर इसे चूक माना जाएगा तथा न्यासी बोर्ड और नियोक्ता संयुक्त रूप से और अलग-अलग, कर्मचारी भविष्य निधि संगठन द्वारा की जाने वाली उपयुक्त दाइंडक कार्रवाई के भागी होंगे।

17. न्यासी बोर्ड समय-समय पर सरकार के निर्देशों के अनुसार भविष्य निधि के पैसे का निवेश करेगा। सरकार के निर्देशों के अनुसार निवेश करने में असफल होने पर न्यासी बोर्ड अलग-अलग और संयुक्त रूप से केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधि द्वारा यथा अधिरोपित अधिशुल्क का भागी बन जाएगा।
- 18.(क) प्रतिभूतियां न्यास के नाम से प्राप्त की जाएँगी। इस प्रकार प्राप्त की गई प्रतिभूतियां अभौतिक (डीमेट) रूप में होनी चाहिए तथा न्यास के कार्यचालित रहने वाले क्षेत्रों में अपेक्षित सुविधा के उपलब्ध न होने की स्थिति में न्यासी बोर्ड संबंधित क्षेत्रीय भविष्य निधि आयुक्त को इसकी सूचना देंगे।
- (ख) न्यासी बोर्ड लिपि-वार रजिस्टर बनाएगा तथा ब्याज की समय पर उगाही सुनिश्चित करेगा।
- (ग) डीमेट खाता इस संबंध में केन्द्रीय सरकार द्वारा जारी अनुदेशों के अनुसार भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों के माध्यम से खोला जाए।
- (घ) डीमेट खाते का खर्च न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाए। प्रतिभूतियों आदि की खरीद की दलाली जैसे निवेशों के सभी प्रकार के खर्चों को भी न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाएगा।
19. प्रतिभूतियों और बाण्डों की खरीद जैसे ऐसे निवेश भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों की सुरक्षा अभिरक्षा में दर्ज किए जाएं, जो इसके संरक्षक होंगे। स्थापना की बंदी या परिस्मापन या कर्मचारी भविष्य निधि, 1952 से छूट पर यह संरक्षक, न्यास के नाम पर प्राप्त तथा अपने जमा में पड़े निवेश को संबंधित क्षेत्रीय भविष्य निधि आयुक्त के, इस आशय के अनुरोध पर संबंधित क्षेत्रीय भविष्य निधि आयुक्त को सीधे अंतरित करेगा।
20. स्थापना संबंधित क्षेत्रीय भविष्य निधि आयुक्त को उन निक्षेपागार प्रतिभागियों (भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित) के विवरण से सूचित करेगी, जिनके पास तथा जिनकी सुरक्षा अभिरक्षा में न्यास के मान पर किए गए निवेश अर्थात् प्रतिभूतियों, बाण्डों आदि में किए गए निवेश दर्ज किए गए हैं। तथापि, न्यासी बोर्ड उस धनराशि की उगाही कर सकता है, जो दावों के निपटान, नियमानुसार अग्रिमों की मंजूरी और नियोक्ता की सेवा छोड़ने की स्थिति में सदस्य के भविष्य निधि संचयन के अंतरण और प्रतिभूतियों की विक्री द्वारा अन्य किसी प्राप्तियों अथवा क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के शर्ताधीन निधि के नाम में पड़े अन्य निवेशों जैसे बाध्यकारी व्ययों को पूरा करने के लिए अपेक्षित हों।
21. न्यास द्वारा किए गए निवेशों के लिए किसी वित्तीय या अन्य संस्थाओं द्वारा दिए जाने वाले किसी कमीशन, प्रोत्साहन, बोनस या अन्य आर्थिक लाभ इसके खाते में डाले जाएँ।
22. नियोक्ता और न्यासी बोर्ड के सदस्य शर्तों का पालन करने की सहमति देते हुए लिखित वचन देंगे तथा यह वैधिक रूप से नियोक्ता और न्यासी बोर्ड के उत्तराधिकारियों और समनुदेशियों पर उनके साथ-साथ बाध्यकारी होगा।
23. नियोक्ता और न्यासी बोर्ड छूट के रद्द होने कि स्थिति में संबंधित क्षेत्रीय भविष्य निधि आयुक्त द्वारा विहित समय सीमा के भीतर तत्काल निधियों का अंतरण करने के वचन भी देगा। यह उन पर कानूनी रूप से बाध्यकारी होगा तथा उन्हें निधियों के अंतरण में कोई विलंब होने की स्थिति में अभियोजन का भागी बनाएगा।
- 24.(क) न्यासी बोर्ड द्वारा अनुरक्षित भविष्य निधि खाता किसी योग्य स्वतंत्र चार्टर्ड लेखाकार द्वारा वार्षिक रूप से लेखा-परीक्षा करने के शर्ताधीन होगा। जहां भी आवश्यक समझा जाए, वहां कर्मचारी भविष्य निधि संगठन को अधिकार होगा कि यह किसी अन्य योग्य लेखा-परीक्षक द्वारा खातों की लेखा-परीक्षा कराए तथा इस प्रकार हुए खर्च नियोक्ता द्वारा वहन किए जाएँगे।
- (ख) लेखा-परीक्षकों द्वारा वित्तीय वर्ष अर्थात् 1 अप्रैल से 31 मार्च तक की समाप्ति के बाद छह महीने के भीतर लेखा-परीक्षीत तलन-पत्र सहित लेखा-परीक्षक की रिपोर्ट की प्रति सीधे इस कार्यालय में प्रस्तुत की जाए। तुलन-पत्र का प्रारूप और इस रिपोर्ट में प्रस्तुत की जाने वाली जानकारी कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित की जाएगी तथा संबंधित क्षेत्रीय भविष्य निधि आयुक्त के कार्यालय में इलैक्ट्रॉनिक प्रारूप के साथ हस्ताक्षरित प्रतिलिपि में उपलब्ध कराई जाएगी।
- (ग) एक ही लेखा-परीक्षकों को लगातार दो वर्ष के लिए तथा अगले वित्तीय वर्ष के पहले दिन से मिली छूट से अधिक के लिए नियुक्त ना किया जाए।
25. लगातार तीन वित्तीय वर्षों तक कोई हानि या पूँजी आधार में कटौती को अगले वित्तीय वर्ष के पहले दिन से मिली छूट प्राप्त होगी।
26. नियोक्ता प्रत्येक माह की समाप्ति से 15 दिन के भीतर निरीक्षण हेतु ऐसी सुविधाओं का प्रावधान करेगा तथा ऐसे निरीक्षण प्रभारों का भुगतान करेगा जो केन्द्रीय सरकार द्वारा अधिनियम की धारा 17 के उप-खण्ड (3) के खण्ड (क) के अंतर्गत समय-समय पर दिए निर्देशों के अनुसार हों।
27. न्यासी बोर्ड या नियोक्ता द्वारा छूट देने के लिए शर्तों के किसी उल्लंघन की स्थिति में दी गई छूट संबंधित व्यक्ति को इस संबंध में कारण बताओ नोटिस जारी करने के बाद रद्द कर दी जाएगी।
28. किसी भी धोखे, गबन, गलत निवेश निर्णयों आदि के फलस्वरूप ट्रस्ट को हुए किसी भी नुकसान की स्थिति में नियोक्ता नुकसान पूरा करने का भागी होगा।
29. किसी विलय, अविलय, अभिग्रहण, बिक्री, एकीकरण, सहायक कंपनी का गठन चाहे पूर्णतः स्वामित्व वाली हो या नहीं इत्यादी के फलस्वरूप यदि प्रतिष्ठान की कानूनी स्थिति में कोई भी बदलाव होता

है तो वी गई छूट निरस्त होगी एवं प्रतिष्ठान को तुरंत नई छूट देने के लिए मामले की रिपोर्ट करनी चाहिए।

30. एक ही भविष्य निधि ट्रस्ट में एक से अधिक इकाई/प्रतिष्ठानों के भाग लेने की स्थिति में भाग लेने वाली इकाइयों के किसी भी ट्रस्टी/नियोक्ता द्वारा कोई भी चूक होने पर भी ट्रस्टी संयुक्त रूप से अलग से जिम्मेदार/उत्तरदायी होंगे और आरपीएफसी आम भविष्य निधि ट्रस्ट के सभी न्यासियों के विरुद्ध उपयुक्त कानूनी कार्रवाई करेगा।

31. केन्द्र सरकार प्रतिष्ठान की छूट की निरंतरता के लिए शर्तों को बढ़ा सकती है और जब भी इनको संप्रेषित किया जाएगा ये प्रतिष्ठान इन अतिरिक्त शर्तों का अनुपालन करने के लिए बाध्य होंगे।

New Delhi, the 19th August, 2014

**S.O. 2246.**—Whereas M/s. L&T Gulf Pvt. Limited [under Code No. MN/202493 in Regional Office, Thane] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions annexed with this notification, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-4-2009 until further notification.

[No. S-35015/47/2014-SS-II]

SUBHASH KUMAR, Under Secy.

#### ANNEXURE

#### CONDITIONS FOR GRANT OF EXEMPTION FROM THE PROVISIONS OF EMPLOYEES PROVIDENT FUND SCHEME, 1952

1. The employer shall establish a Board of Trustees under his Chairmanship for the management of the Provident Fund according to such directions as may be given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Funds Organisation, inter alia, for

proper accounts of the receipts into and payment from the Provident Fund and the balance in their custody. For this purpose, the “employer” shall mean :—

- (i) In relation to an establishment, which is a factory, the owner or occupier of the factory: and .
- (ii) In relation to any other establishment, the person who, or the authority, that has the ultimate control over the affairs of the establishment.

2. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner (CPFC) or an officer authorized by him.

3. All employees’ as defined in section 2(f) of the act, who have been eligible to become members of the Provident Fund had the establishment not been granted exemption, shall be enrolled as members.

4. Where an employee who is already a member of Employees' Provident fund or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund. The employer should also arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited into his account.

5. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and employees at the rate prescribed under the act from time to time by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of Section 7Q of the Act for any delay in payment of any dues towards the Board of Trustees.

6. The employer shall bear all the expenses of the administration of Provident Fund and also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.

7. Any deficiency in the interest declared by the Board of Trustees is to be made good by the employer to bring it up to the statutory limit.

8. The employer shall display on the notice board of the establishment, a copy of the rules of the funds as approved by the appropriate authority and as and when amended thereto along with a translation in the language of the majority of the employees.

9. The rate of contributions payable, the conditions and quantum of advances and other matters laid down under the provident fund rules of the establishment and the interest credited to the account of each member, calculated on the monthly running balance of the member

and declared by the Board of Trustees shall not be lower than those declared by the Central Government under the various provisions prescribed in the Act and Scheme framed thereunder.

10. Any amendment to the Scheme, which is more beneficial to the employees than the existing rules of the establishment, shall be made applicable to them automatically pending formal amendment of the Rules of the Trust.

11. No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner. The Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.

12. All claims for withdrawals, advances and transfers should be settled expeditiously, within the maximum time frame prescribed by the Employees' Provident Fund Organisation.

13. The Board of Trustees shall maintain detailed accounts to show the contributions credited withdrawal and interest in respect of each employee. The maintenance of such records should preferably be done electronically. The establishments should periodically transmit the details of members' accounts electronically as and when directed by the Central Provident Commissioner/Regional Provident Fund Commissioner.

14. The Board of Trustees shall issue an annual statement of accounts or pass books to every employee within six months of the close of financial/accounting year free of cost once in the year. Additional printouts can be made available as and when the members want, subject to nominal charges. In case of passbook, the same shall remain in custody of employee to be updated periodically by the Trustees when presented to them.

15. The employer shall make necessary provisions to enable all the members to be able to see their account balance from the computer terminals as and when required by them.

16. The Board of Trustees and the employer shall file such returns monthly/annually as may be prescribed by the Employees' Provident Fund Organisation within the specified time limit, failing which it will be deemed as a default and the Board of Trustees and employer will jointly and separately be liable for suitable penal action by the Employees' Provident Fund Organisation.

17. The Board of Trustees shall invest the monies of the provident fund as per the directions of the Government from time to time. Failure to make investments as per directions of the Government shall make the Board of Trustees separately and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

18. (a) The securities shall be obtained in the name of Trust. The securities so obtained should be in dematerialized (DEMAT) form and in case the required facility is not available in the areas where the trust operates the Board of Trustees shall inform the Regional Provident Fund Commissioner concerned about the same.
- (b) The Board of Trustees shall maintain a script wise register and ensure timely realization of interest.
- (c) The DEMAT Account should be opened through depository participants approved by Reserve Bank of India and Central Government in accordance with the instructions issued by the Central Government in this regard.
- (d) The cost of maintaining DEMAT account should be treated as incidental cost of investment by the Trust. Also all types of cost of investments like brokerage for purchase of securities etc. shall be treated as incidental cost of investment by the Trust.

19. All such investments made like purchase of securities and bonds, should be lodged in the safe custody of depository participants approved by Reserve Bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952 such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the Regional PF Commissioner concerned directly on receipt of request from the Regional PF Commissioner concerned to that effect.

20. The establishment shall intimate to the Regional P.F. Commissioner concerned the details of depository participants (approved by RBI and Central Government), with whom and in whose safe custody, the investments made in the name of trust, viz., investments made in securities, bonds, etc. have been lodged. However, the Board of Trustees may raise such sum of sums of money as may be required for meeting obligatory expenses such as settlement of claims, grant of advances as per rules and transfer of member's PF accumulations in the event of his/her leaving service of the employer and any other receipts by sale of the securities or other investments standing in the name of the Fund subject to the prior approval of the Regional PF Commissioner.

21. Any commission, incentive, bonus or other pecuniary rewards given by any financial or other institutions for the investments made by the Trust should be credited to its account.

22. The employer and the members of the Board of Trustees, shall furnish a written undertaking agreeing to abide by the conditions and this shall be legally binding on the employer and the Board of Trustees, including their successors and assignees.

23. The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the event of cancellation of relaxation. This shall be legally binding on them and will make them liable for prosecution in the event of any delay in the transfer of funds.

24. (a) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent chartered accountant annually. Where considered necessary the EPFO shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

(b) A copy of the Auditor's report alongwith the audited balance sheet should be submitted to this office by the Auditors directly within six months after the closing of the financial year from 1st April to 31st March. The format of the balance sheet and the information to be furnished in the report shall be prescribed by the Employees' Provident fund Organisation and made available with the RPFC office in electronic format as well as a signed hard copy.

(c) The same auditors should not be appointed for two consecutive years and not more than the relaxation withdrawn from the first day of the next succeeding financial year.

25. Any loss for the three consecutive financial years or erosion in the capital base shall have the relaxation withdrawn from the first day of the next succeeding financial year.

26. The employer shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of Section 17 of the Act within 15 days from the close of every month.

27. In the event of any violation of the conditions for grant of relaxation, by the employer or the Board of Trustees, the relaxation granted shall be cancelled after issuing a show cause notice in this regard to the concerned persons.

28. In the event of any loss to the trust as a result of any fraud, defalcation, wrong investment decisions etc. the employer shall be liable to make good the loss.

29. In case of any change of legal status of the establishment as a result of merger, de-merger, acquisition, sale, amalgamation, formation of a subsidiary, whether wholly owned or not etc., the relaxation granted shall stand revoked and the establishment should promptly report the matter for grant of fresh relaxation.

30. In case there are more than one unit/establishment participating in the common Provident Fund Trust, all the trustees shall be jointly' and separately liable/responsible

for any default committed by any of the trustees/employer of any of the participating units and the RPFC shall take suitable legal action against all the trustees of the common Provident Fund Trust.

31. The Central Government may lay down further conditions for continuation of exemption of the establishment and the establishment shall be bound to comply with these additional conditions as and when the same are communicated.

नई दिल्ली, 19 अगस्त, 2014

**का.आ. 2247.—जबकि मैसर्स अदित्य बिरला कोमिकल्स (झंडिया) लिमिटेड (कोड संख्या जे.एच/4989 के अंतर्गत क्षेत्रीय कार्यालय झारखण्ड में) (एतदुपरांत प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।**

2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कर्मचारियों के लिए कम उपयुक्त नहीं है और कर्मचारी सदृश स्वरूप के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में उक्त अधिनियम अथवा कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरांत योजना के रूप में संदर्भित) के अंतर्गत उपलब्ध अन्य भविष्य निधि प्रसुविधाओं का भी लाभ उठा रहे हैं।

3. अतः, अब, केन्द्र सरकार उक्त अधिनियम की धारा 17 की उप धारा (1) के खण्ड (क) अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना के साथ संलग्न शर्तों के अध्याधीन, एतद्वारा उक्त योजना के सभी उपबंधों के प्रचालन से 01-11-1988 से अगले अधिसूचना तक उक्त प्रतिष्ठान को छूट प्रदान करती है।

[सं. एस-35015/72/2014-एसएस-II]

सुभाष कुमार, अवर सचिव

अनुबंध

#### कर्मचारी भविष्य निधि योजना, 1952 के उपबंधों से छूट प्रदान करने संबंधी शर्तें

1. नियोक्ता समय-समय पर केन्द्रीय सरकार अथवा केन्द्रीय भविष्य निधि आयुक्त, जैसी भी स्थिति हो, द्वारा दिए जाने वाले ऐसे निदेशों के अनुसार भविष्य निधि के प्रबंधन हेतु अपनी अध्यक्षता में एक न्यासी बोर्ड गठित करेगा। भविष्य निधि न्यासी बोर्ड में विहित होगी जो अन्य बातों के साथ-साथ कर्मचारी भविष्य निधि संगठन के प्रति भविष्य निधि में प्राप्तियों और उसमें से भुगतान के उचित लेखों और उनकी अधिकारी में शेष राशि के लिए उत्तरदायी होगा। इस प्रयोजनार्थ, “नियोक्ता” से :—

(i) किसी प्रतिष्ठान, जो एक कारखाना हो, उसके संबंध में, कारखाने का स्वामी अथवा अधिष्ठाता अभिप्रेत होगा; और

- (ii) किसी अन्य प्रतिष्ठान के संबंध में, वह व्यक्ति, अथवा प्राधिकारी अभिप्रेत होगा, जिसका उस प्रतिष्ठान के कामकाज पर अंतिम नियंत्रण हो।
2. न्यासी बोर्ड हरेक तिमाही में कम से कम एक बार बैठक करेगा और वह केन्द्र सरकार/केन्द्रीय भविष्य निधि आयुक्त (सीपीएफसी) अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय-समय पर जारी किए जाने वाले दिशानिर्देशों के अनुसार कार्य करेगा।
3. अधिनियम की धारा 2(च) में यथा-परिभाषित सभी कर्मचारी, जो भविष्य निधि के सदस्य बनने के पात्र रहे हैं; यदि प्रतिष्ठान को छूट प्रदान नहीं की होती, उन्हें सदस्यों के रूप में नामांकित किया जाएगा।
4. जहां कोई कर्मचारी जो पहले ही किसी अन्य छूट-प्राप्त प्रतिष्ठान के किसी कर्मचारी भविष्य निधि अथवा भविष्य निधि का सदस्य हो, उसे उसके प्रतिष्ठान में नियोजित किया जाता है, तो नियोक्ता उसे तत्काल निधि के सदस्य के रूप में नामांकित करेगा। नियोक्ता ऐसे कर्मचारी के भविष्य निधि खाते में उसके पहले नियोक्ता से संचय राशियां अंतरित और जमा करवाने की भी व्यवस्था करेगा।
5. नियोक्ता भविष्य निधि को उसके द्वारा और कर्मचारी के द्वारा समय-समय पर अधिनियम के अंतर्गत निर्धारित दर से देय अंशदान को, जिस माह के लिए अंशदान देय हों उसके बाद के माह की 15 तारीख तक न्यासी बोर्ड को अंतरित करेगा। नियोक्ता न्यासी बोर्ड को किन्हीं देयों के भुगतान में किसी विलम्ब के लिए अधिनियम की धारा 7थे के उपबंधों के अनुसार साधारण ब्याज अदा करने का दायी होगा।
6. नियोक्ता भविष्य निधि के प्रशासन के सभी व्यय वहन करेगा और चोरी, डकैती, गबन, दुर्विनियोग अथवा किसी अन्य कारण से भविष्य निधि को हो सकने वाले किसी घाटे की भी भरपाई करेगा।
7. न्यासी बोर्ड द्वारा घोषित ब्याज में किसी कमी को भी नियोक्ता द्वारा पूरा किया जाना होगा और उसे सांविधिक सीमा तक लाना होगा।
8. नियोक्ता जब कभी नियम संशोधित किए जाएं, समुचित प्राधिकारी द्वारा यथा-अनुमोदित, निधि के नियमों की एक प्रति अधिसंचयक कर्मचारियों की भाषा में उनके अनुवाद सहित प्रतिष्ठान के सूचना पट पर प्रदर्शित करेगा।
9. प्रतिष्ठान के भविष्य निधि नियमों के अंतर्गत निर्धारित देय अंशदान की दर, अग्रिम की शर्तें और मात्रा तथा अन्य मामले और सदस्य के मासिक चालू शेष पर संगणित और न्यासी बोर्ड द्वारा घोषित, प्रत्येक सदस्य के खाते में जमा किया गया ब्याज, अधिनियम और उसके अंतर्गत निर्मित योजना में निर्धारित विभिन्न उपबंधों के अंतर्गत केन्द्र सरकार द्वारा घोषित दर से कम नहीं होगा।
10. योजना में कोई संशोधन, जो प्रतिष्ठान के विद्यमान नियमों की तुलना में कर्मचारियों के लिए अधिक लाभदायक हो, उसे न्यास के नियमों में औपचारिक संशोधन के लंबित रहते उन पर स्वतः लागू किया जाएगा।
11. नियोक्ता द्वारा नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के बिना नहीं किया जाएगा। क्षेत्रीय भविष्य निधि आयुक्त अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना रुख स्पष्ट करने का वाजिब अवसर देगा।
12. निकासी, अग्रिम और अंतरण के सभी दावे कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित अधिकतम समय सीमा के भीतर, शीघ्रता से निपटाए जाएंगे।
13. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किए गए अंशदान, निकासी और ब्याज दर्शाने के लिए विस्तरित लेखों का रख-रखाव करेगा। ऐसे अभिलेखों का रख-रखाव अधिमानतः इलैक्ट्रॉनिक रूप से रखा जाएगा। प्रतिष्ठान आवधिक रूप से जब कभी केन्द्रीय भविष्य निधि आयुक्त/क्षेत्रीय भविष्य निधि आयुक्त द्वारा निदेश दिया जाए, सदस्यों के लेखों को इलैक्ट्रॉनिक रूप से सम्प्रेषित करेंगे।
14. न्यासी बोर्ड वर्ष में एक बार वित्तीय/लेखा वर्ष के समाप्त होने के छः माह के भीतर प्रत्येक कर्मचारी को निःशुल्क लेखों का वार्षिक विवरण अथवा पासबुक जारी करेगा। जब कभी सदस्य चाहें, अतिरिक्त प्रिंटऑफ नाममात्र के प्रभार के साथ उपलब्ध कराए जा सकते हैं। पासबुक के मामले में वह कर्मचारी के पास रहेंगी जिसे प्रस्तुत किए जाने पर न्यासियां द्वारा आवधिक रूप से अद्यतन किया जाएगा।
15. नियोक्ता सभी सदस्यों को उनकी आवश्यकतानुसार कम्प्यूटर टर्मिनलों से अपने खाते में पड़ी शेष राशि को देखने के समर्थ बनाने के लिए आवश्यक प्रावधान करेंगे।
16. न्यासी बोर्ड और नियोक्ता कर्मचारी भविष्य निधि संगठन द्वारा यथा-विहित रूप में ये विवरणियां विनिर्दिष्ट समय सीमा के भीतर मासिक/वार्षिक रूप से दायर करेंगे, जिसे न करने पर इसे चूक माना जाएगा तथा न्यासी बोर्ड और नियोक्ता संयुक्त रूप से और अलग-अलग, कर्मचारी भविष्य निधि संगठन द्वारा की जाने वाली उपयुक्त दाण्डक कार्रवाई के भागी होंगे।
17. न्यासी बोर्ड समय-समय पर सरकार के निर्देशों के अनुसार भविष्य निधि के पैसे का निवेश करेगा। सरकार के निर्देशों के अनुसार निवेश करने में असफल होने पर न्यासी बोर्ड अलग-अलग और संयुक्त रूप से केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधि द्वारा यथा अधिरोपित अधिशुल्क का भागी बन जाएगा।
- 18.(क) प्रतिभूतियां न्यास के नाम से प्राप्त की जाएंगी। इस प्रकार प्राप्त की गई प्रतिभूतियां अभौतिक (डीमेट) रूप में होनी चाहिए तथा न्यास के कार्यचालित रहने वाले क्षेत्रों में अपेक्षित सुविधा के उपलब्ध न होने की स्थिति में न्यासी बोर्ड संबंधित क्षेत्रीय भविष्य निधि आयुक्त को इसकी सूचना देंगे।
- (ख) न्यासी बोर्ड लिपि-वार रजिस्टर बनाएगा तथा ब्याज की समय पर उगाही सुनिश्चित करेगा।
- (ग) डीमेट खाता इस संबंध में केन्द्रीय सरकार द्वारा जारी अनुदेशों के अनुसार भारतीय रिजर्व बैंक और केन्द्रीय

- सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों के माध्यम से खोला जाए ।
- (घ) डीमेट खाते का खर्च न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाए । प्रतिभूतियों आदि की खरीद की दलाली जैसे निवेशों के सभी प्रकार के खर्चों को भी न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाएगा ।
19. प्रतिभूतियों और बाण्डों की खरीद जैसे ऐसे सभी निवेश भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों की सुरक्षा अभिरक्षा में दर्ज किए जाएं, जो इसके संरक्षक होंगे । स्थापना की बंदी या परिसमापन या कर्मचारी भविष्य निधि, 1952 से छूट पर यह संरक्षक, न्यास के नाम पर प्राप्त तथा अपने जमा में पड़े निवेश को संबंधित क्षेत्रीय भविष्य निधि आयुक्त के, इस आशय के अनुरोध पर संबंधित क्षेत्रीय भविष्य निधि आयुक्त को सीधे अंतरित करेगा ।
20. स्थापना संबंधित क्षेत्रीय भविष्य निधि आयुक्त को उन निक्षेपागार प्रतिभागियों (भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित) के विवरण से सूचित करेगी, जिनके पास तथा जिनकी सुरक्षा अभिरक्षा में न्यास के मान पर किए गए निवेश अर्थात् प्रतिभूतियों, बाण्डों आदि में किए गए निवेश दर्ज किए गए हैं । तथापि, न्यासी बोर्ड उस धनराशि की उगाही कर सकता है, जो दावों के निपटान, नियमानुसार अग्रिमों की मंजूरी और नियोक्ता की सेवा छोड़ने की स्थिति में सदस्य के भविष्य निधि संचयन के अंतरण और प्रतिभूतियों की बिक्री द्वारा अन्य किसी प्राप्तियों अथवा क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के शर्ताधीन निधि के नाम में पड़े अन्य निवेशों जैसे बाध्यकारी व्ययों को पूरा करने के लिए अपेक्षित होंगे ।
21. न्यास द्वारा किए गए निवेशों के लिए किसी वित्तीय या अन्य संस्थाओं द्वारा दिए जाने वाले किसी कमीशन, प्रोत्साहन, बोनस या अन्य आर्थिक लाभ इसके खाते में डाले जाएं ।
22. नियोक्ता और न्यासी बोर्ड के सदस्य शर्तों का पालन करने की सहमति देते हुए लिखित वचन देंगे तथा यह वैधिक रूप से नियोक्ता और न्यासी बोर्ड के उत्तराधिकारियों और समनुदेशियों पर उनके साथ-साथ बाध्यकारी होगा ।
23. नियोक्ता और न्यासी बोर्ड छूट के रद्द होने कि स्थिति में संबंधित क्षेत्रीय भविष्य निधि आयुक्त द्वारा विहित समय सीमा के भीतर तत्काल निधियों का अंतरण करने के वचन भी देगा । यह उन पर कानूनी रूप से बाध्यकारी होगा तथा उन्हें निधियों के अंतरण में कोई विलंब होने की स्थिति में अभियोजन का भागी बनाएगा ।
- 24.(क) न्यासी बोर्ड द्वारा अनुरक्षित भविष्य निधि खाता किसी योग्य स्वतंत्र चार्टर्ड लेखाकार द्वारा वार्षिक रूप से लेखा-परीक्षा करने के शर्ताधीन होगा । जहां भी आवश्यक समझा जाए, वहां कर्मचारी भविष्य निधि संगठन को अधिकार होगा कि यह किसी अन्य योग्य लेखा-परीक्षक द्वारा खातों की लेखा-परीक्षा कराए तथा इस प्रकार हुए खर्च नियोक्ता द्वारा वहन किए जाएंगे ।
- (ख) लेखा-परीक्षकों द्वारा वित्तीय वर्ष अर्थात् 1 अप्रैल से 31 मार्च तक की समाप्ति के बाद छह महीने के भीतर लेखा-परीक्षीत तलन-पत्र सहित लेखा-परीक्षक की रिपोर्ट की प्रति सीधे इस कार्यालय में प्रस्तुत की जाए । तुलन-पत्र का प्रारूप और इस रिपोर्ट में प्रस्तुत की जाने वाली जानकारी कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित की जाएगी तथा संबंधित क्षेत्रीय भविष्य निधि आयुक्त के कार्यालय में इलैक्ट्रॉनिक प्रारूप के साथ हस्ताक्षरित प्रतिलिपि में उपलब्ध कराई जाएगी ।
- (ग) एक ही लेखा-परीक्षकों को लगातार दो वर्ष के लिए तथा अगले वित्तीय वर्ष के पहले दिन से मिली छूट से अधिक के लिए नियुक्त ना किया जाए ।
25. लगातार तीन वित्तीय वर्षों तक कोई हानि या पूँजी आधार में कटौती को अगले वित्तीय वर्ष के पहले दिन से मिली छूट प्राप्त होगी ।
26. नियोक्ता प्रत्येक माह की समाप्ति से 15 दिन के भीतर निरीक्षण हेतु ऐसी सुविधाओं का प्रावधान करेगा तथा ऐसे निरीक्षण प्रभारों का भुगतान करेगा जो केन्द्रीय सरकार द्वारा अधिनियम की धारा 17 के उप-खण्ड (3) के खण्ड (क) के अंतर्गत समय-समय पर दिए निर्देशों के अनुसार हों ।
27. न्यासी बोर्ड या नियोक्ता द्वारा छूट देने के लिए शर्तों के किसी उल्लंघन की स्थिति में दी गई छूट संबंधित व्यक्ति को इस संबंध में कारण बताओ नोटिस जारी करने के बाद रद्द कर दी जाएगी ।
28. किसी भी धोखे, गबन, गलत निवेश निर्णयों आदि के फलस्वरूप ट्रस्ट को हुए किसी भी नुकसान की स्थिति में नियोक्ता नुकसान पूरा करने का भागी होगा ।
29. किसी विलय, अविलय, अभिग्रहण, बिक्री, एकीकरण, सहायक कंपनी का गठन चाहे पूर्णतः स्वामित्व वाली हो या नहीं इत्यादी के फलस्वरूप यदि प्रतिष्ठान की कानूनी स्थिति में कोई भी बदलाव होता है तो दी गई छूट निरस्त होगी एवं प्रतिष्ठान को तुरंत नई छूट देने के लिए मामले की रिपोर्ट करनी चाहिए ।
30. एक ही भविष्य निधी ट्रस्ट में एक से अधिक इकाई/प्रतिष्ठानों के भाग लेने की स्थिति में भाग लेने वाली इकाइयों के किसी भी ट्रस्टी/नियोक्ता द्वारा कोई भी चूक होने पर सभी ट्रस्टी संयुक्त रूप से अलग से जिम्मेदार/उत्तरदायी होंगे और आरपीएफसी आम भविष्य निधि ट्रस्ट के सभी न्यासियों के विरुद्ध उपयुक्त कानूनी कार्रवाई करेगा ।
31. केन्द्र सरकार प्रतिष्ठान की छूट की निरंतरता के लिए शर्तों को बढ़ा सकती है और जब भी इनको संप्रेषित किया जाएगा ये प्रतिष्ठान इन अतिरिक्त शर्तों का अनुपालन करने के लिए बाध्य होंगे ।

New Delhi, the 19th August, 2014

**S.O. 2247.**—Whereas M/s. Aditya Birla Chemicals (India) Limited [under Code No. JH/4989 in Regional Office, Jharkhand] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and

Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions annexed with this notification, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-11-1988 until further notification.

[No. S-35015/72/2014-SS-II]

SUBHASH KUMAR, Under Secy.

#### ANNEXURE

#### **CONDITIONS FOR GRANT OF EXEMPTION FROM THE PROVISIONS OF EMPLOYEES PROVIDENT FUND SCHEME, 1952**

1. The employer shall establish a Board of Trustees under his Chairmanship for the management of the Provident Fund according to such directions as may be given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Funds Organisation, inter alia, for proper accounts of the receipts into and payment from the Provident Fund and the balance in their custody. For this purpose, the "employer" shall mean :

- (i) In relation to an establishment, which is a factory, the owner or occupier of the factory: and .
- (ii) In relation to any other establishment, the person who, or the authority, that has the ultimate control over the affairs of the establishment.

2. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner (CPFC) or an officer authorized by him.

3. All employees' as defined in section 2(f) of the act, who have been eligible to become members of the Provident Fund' had the establishment not been granted exemption, shall be enrolled as members.

4. Where an employee who is already a member of Employees' Provident fund or a Provident Fund of any

other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund. The employer should also arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited into his account.

5. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and employees at the rate prescribed under the act from time to time by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of Section 7Q of the Act for any delay in payment of any dues towards the Board of Trustees.

6. The employer shall bear all the expenses of the administration of Provident Fund and also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.

7. Any deficiency in the interest declared by the Board of Trustees is to be made good by the employer to bring it up to the statutory limit.

8. The employer shall display on the notice board of the establishment, a copy of the rules of the funds as approved by the appropriate authority and as and when amended thereto along with a translation in the language of the majority of the employees.

9. The rate of contributions payable, the conditions and quantum of advances and other matters laid down under the provident fund rules of the establishment and the interest credited to the account of each member, calculated on the monthly running balance of the member and declared by the Board of Trustees shall not be lower than those declared by the Central government under the various provisions prescribed in the Act and Scheme framed thereunder.

10. Any amendment to the Scheme, which is more beneficial to the employees than the existing rules of the establishment, shall be made applicable to them automatically pending formal amendment of the Rules of the Trust.

11. No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner. The Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.

12. All claims for withdrawals, advances and transfers should be settled expeditiously, within the maximum time frame prescribed by the Employees' Provident Fund Organisation.

13. The Board of Trustees shall maintain detailed accounts to show the contributions credited withdrawal

and interest in respect of each employee. The maintenance of such records should preferably be done electronically. The establishments should periodically transmit the details of members' accounts electronically as and when directed by the Central Provident Commissioner/Regional Provident Fund Commissioner.

14. The Board of Trustees shall issue an annual statement of accounts or pass books to every employee within six months of the close of financial/accounting year free of cost once in the year. Additional printouts can be made available as and when the members want, subject to nominal charges. In case of passbook, the same shall remain in custody of employee to be updated periodically by the Trustees when presented to them.

15. The employer shall make necessary provisions to enable all the members to be able to see their account balance from the computer terminals as and when required by them.

16. The Board of Trustees and the employer shall file such returns monthly/annually as may be prescribed by the Employees' Provident Fund Organisation within the specified time limit, failing which it will be deemed as a default and the Board of Trustees and employer will jointly and separately be liable for suitable penal action by the Employees' Provident Fund Organisation.

17. The Board of Trustees shall invest the monies of the provident fund as per the directions of the Government from time to time. Failure to make investments as per directions of the Government shall make the Board of Trustees separately and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

- 18. (a) The securities shall be obtained in the name of Trust. The securities so obtained should be in dematerialized (DEMAT) form and in case the required facility is not available in the areas where the trust operates the Board of Trustees shall inform the Regional Provident Fund Commissioner concerned about the same.
- (b) The Board of Trustees shall maintain a script wise register and ensure timely realization of interest.
- (c) The DEMAT Account should be opened through depository participants approved by Reserve Bank of India and Central Government in accordance with the instructions issued by the Central Government in this regard.
- (d) The cost of maintaining DEMAT account should be treated as incidental cost of investment by the Trust. Also all types of cost of investments like brokerage for purchase of securities etc. shall be treated as incidental cost of investment by the Trust.

19. All such investments made like purchase of securities and bonds, should be lodged in the safe custody of

depository participants approved by Reserve Bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952 such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the Regional PF Commissioner concerned directly on receipt of request from the Regional PF Commissioner concerned to that effect.

20. The establishment shall intimate to the Regional P.F. Commissioner concerned the details of depository participants (approved by RBI and Central Government), with whom and in whose safe custody, the investments made in the name of trust, viz., investments made in securities, bonds, etc. have been lodged. However, the Board of Trustees may raise such sum of sums of money as may be required for meeting obligatory expenses such as settlement of claims, grant of advances as per rules and transfer of member's PF accumulations in the event of his/her leaving service of the employer and any other receipts by sale of the securities or other investments standing in the name of the Fund subject to the prior approval of the Regional PF Commissioner.

21. Any commission, incentive, bonus or other pecuniary rewards given by any financial or other institutions for the investments made by the Trust should be credited to its account.

22. The employer and the members of the Board of Trustees, shall furnish a written undertaking agreeing to abide by the conditions and this shall be legally binding on the employer and the Board of Trustees, including their successors and assignees.

23. The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the event of cancellation of relaxation. This shall be legally binding on them and will make them liable for prosecution in the event of any delay in the transfer of funds.

- 24. (a) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent chartered accountant annually. Where considered necessary the EPFO shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.
- (b) A copy of the Auditor's report alongwith the audited balance sheet should be submitted to this office by the Auditors directly within six months after the closing of the financial year from 1st April to 31st March. The format of the balance sheet and the information to be furnished in the report shall be prescribed by the Employees' Provident fund Organisation and made available with the RPFC office in electronic format as well as a signed hard copy.

- (c) The same auditors should not be appointed for two consecutive years and not more than the relaxation withdrawn from the first day of the next succeeding financial year.
25. Any loss for the three consecutive financial years or erosion in the capital base shall have the relaxation withdrawn from the first day of the next succeeding financial year.
26. The employer shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of Section 17 of the Act within 15 days from the close of every month.
27. In the event of any violation of the conditions for grant of relaxation, by the employer or the Board of Trustees, the relaxation granted shall be cancelled after issuing a show cause notice in this regard to the concerned persons.
28. In the event of any loss to the trust as a result of any fraud, defalcation, wrong investment decisions etc. the employer shall be liable to make good the loss.
29. In case of any change of legal status of the establishment as a result of merger, de-merger, acquisition, sale, amalgamation, formation of a subsidiary, whether wholly owned or not etc., the relaxation granted shall stand revoked and the establishment should promptly report the matter for grant of fresh relaxation.
30. In case there are more than one unit/establishment participating in the common Provident Fund Trust, all the trustees shall be jointly' and separately liable/responsible for any default committed by any of the trustees/employer of any of the participating units and the RPFC shall take suitable legal action against all the trustees of the common Provident Fund Trust.
31. The Central Government may lay down further conditions for continuation of exemption of the establishment and the establishment shall be bound to comply with these additional conditions as and when the same are communicated.
- नई दिल्ली, 19 अगस्त, 2014
- का.आ. 2248.—जबकि मैसर्स कंसल्टिंग इंजीनियरिंग सर्विसेज (इंडिया) प्राइवेट लिमिटेड (कोड संख्या डीएल/3698 के अंतर्गत दिल्ली दक्षिण क्षेत्रीय कार्यालय में) (एतदुपरांत प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।**
2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कर्मचारियों के लिए कम उपयुक्त नहीं है और कर्मचारी सदृश स्वरूप के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में उक्त अधिनियम अथवा कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरांत योजना के रूप में संदर्भित) के अंतर्गत उपलब्ध अन्य भविष्य निधि प्रसुविधाओं का भी लाभ उठा रहे हैं।
3. अतः, अब, केन्द्र सरकार उक्त अधिनियम की धारा 17 की उप धारा (1) के खण्ड (क) के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना के साथ संलग्न शर्तों के अध्याधीन, एतद्वारा उक्त योजना के सभी उपबंधों के प्रचालन से 29-5-1974 से अगले अधिसूचना तक उक्त प्रतिष्ठान को छूट प्रदान करती है।
- [सं. एस-35015/68/2014-एसएस-II]
- सुभाष कुमार, अवर सचिव  
अनुबंध
- कर्मचारी भविष्य निधि योजना, 1952 के उपबंधों से छूट प्रदान करने संबंधी शर्तें**
1. नियोक्ता समय-समय पर केन्द्रीय सरकार अथवा केन्द्रीय भविष्य निधि आयुक्त, जैसी भी स्थिति हो, द्वारा दिए जाने वाले ऐसे निदेशों के अनुसार भविष्य निधि के प्रबंधन हेतु अपनी अध्यक्षता में एक न्यासी बोर्ड गठित करेगा। भविष्य निधि न्यासी बोर्ड में विहित होगी जो अन्य बातों के साथ-साथ कर्मचारी भविष्य निधि संगठन के प्रति भविष्य निधि में प्राप्तियों और उसमें से भुगतान के उचित लेखों और उनकी अभिरक्षा में शेष राशि के लिए उत्तरदायी होगा। इस प्रयोजनार्थ, “नियोक्ता” से :—
    - (i) किसी प्रतिष्ठान, जो एक कारखाना हो, उसके संबंध में, कारखाने का स्वामी अथवा अधिष्ठाता अभिप्रेत होगा; और
    - (ii) किसी अन्य प्रतिष्ठान के संबंध में, वह व्यक्ति, अथवा प्राधिकारी अभिप्रेत होगा, जिसका उस प्रतिष्ठान के कामकाज पर अंतिम नियंत्रण हो।
  2. न्यासी बोर्ड हरेक तिमाही में कम से कम एक बार बैठक करेगा और वह केन्द्र सरकार/केन्द्रीय भविष्य निधि आयुक्त (सीपीएफसी) अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय समय पर जारी किए जाने वाले दिशानिर्देशों के अनुसार कार्य करेगा।
  3. अधिनियम की धारा 2(च) में यथा परिभाषित सभी कर्मचारी, जो भविष्य निधि के सदस्य बनने के पात्र रहे हैं; यदि प्रतिष्ठान को छूट प्रदान नहीं की होती, उन्हें सदस्यों के रूप में नामांकित किया जाएगा।
  4. जहाँ कोई कर्मचारी जो पहले ही किसी अन्य छूट-प्राप्त प्रतिष्ठान के किसी कर्मचारी भविष्य निधि अथवा भविष्य निधि का सदस्य हो, उसे उसके प्रतिष्ठान में नियोजित किया जाता है, तो नियोक्ता उसे तत्काल निधि के सदस्य के रूप में नामांकित करेगा। नियोक्ता ऐसे कर्मचारी के भविष्य निधि खाते में उसके पहले नियोक्ता से संचय राशियां अंतरित और जमा करवाने की भी व्यवस्था करेगा।
  5. नियोक्ता भविष्य निधि को उसके द्वारा और कर्मचारी के द्वारा समय-समय पर अधिनियम के अंतर्गत निर्धारित दर से देय

अंशदान को, जिस माह के लिए अंशदान देय हों उसके बाद के माह की 15 तारीख तक न्यासी बोर्ड को अंतरित करेगा। नियोक्ता न्यासी बोर्ड को किन्हीं देयों के भुगतान में किसी विलम्ब के लिए अधिनियम की धारा 7 के उपबंधों के अनुसार साधारण व्याज अदा करने का दायी होगा।

6. नियोक्ता भविष्य निधि के प्रशासन के सभी व्यय वहन करेगा और चोरी, डकैती, गबन, दुर्विनियोग अथवा किसी अन्य कारण से भविष्य निधि को हो सकने वाले किसी घाटे की भी भरपाई करेगा।

7. न्यासी बोर्ड द्वारा घोषित व्याज में किसी कमी को भी नियोक्ता द्वारा पूरा किया जाना होगा और उसे सांविधिक सीमा तक लाना होगा।

8. नियोक्ता जब कभी नियम संशोधित किए जाएं, समुचित प्राधिकारी द्वारा यथा अनुमोदित, निधि के नियमों की एक प्रति अधिसंख्यक कर्मचारियों की भाषा में उनके अनुवाद सहित प्रतिष्ठान के सूचना पट पर प्रदर्शित करेगा।

9. प्रतिष्ठान के भविष्य निधि नियमों के अंतर्गत निर्धारित देय अंशदान की दर, अग्रिम की शर्तें और मात्रा तथा अन्य मामले और सदस्य के मासिक चालू शेष पर संगणित और न्यासी बोर्ड द्वारा घोषित, प्रत्येक सदस्य के खाते में जमा किया गया व्याज, अधिनियम और उसके अंतर्गत निर्मित योजना में निर्धारित विभिन्न उपबंधों के अंतर्गत केन्द्र सरकार द्वारा घोषित दर से कम नहीं होगा।

10. योजना में कोई संशोधन, जो प्रतिष्ठान के विद्यमान नियमों की तुलना में कर्मचारियों के लिए अधिक लाभदायक हो, उसे न्यास के नियमों में औपचारिक संशोधन के लंबित रहते उन पर स्वतः लागू किया जाएगा।

11. नियोक्ता द्वारा नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के बिना नहीं किया जाएगा। क्षेत्रीय भविष्य निधि आयुक्त अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना रुख स्पष्ट करने का वाजिब अवसर देगा।

12. निकासी, अग्रिम और अंतरण के सभी दावे कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित अधिकतम समय सीमा के भीतर, शीघ्रता से निपटाए जाएं।

13. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किए गए अंशदान, निकासी और व्याज दर्शने के लिए विस्तरित लेखों का रख-रखाव करेगा। ऐसे अभिलेखों का रख-रखाव अधिमानतः इलैक्ट्रोनिक रूप से रखा जाएगा। प्रतिष्ठान आवधिक रूप से जब कभी केन्द्रीय भविष्य निधि आयुक्त/क्षेत्रीय भविष्य निधि आयुक्त द्वारा निदेश दिया जाए, सदस्यों के लेखों को इलैक्ट्रोनिक रूप से सम्प्रेषित करेंगे।

14. न्यासी बोर्ड वर्ष में एक बार वित्तीय/लेखा वर्ष के समाप्त होने के छः माह के भीतर प्रत्येक कर्मचारी को निःशुल्क लेखों का वार्षिक विवरण अथवा पासबुक जारी करेगा। जब कभी सदस्य चाहें, अतिरिक्त प्रिंटआउट नाममात्र के प्रभार के साथ उपलब्ध कराए जा सकते हैं। पासबुक के मामले में वह कर्मचारी के पास रहेगी जिसे प्रस्तुत किए जाने पर न्यासियों द्वारा आवधिक रूप से अद्यतन किया जाएगा।

15. नियोक्ता सभी सदस्यों को उनकी आवश्यकतानुसार कम्प्यूटर टर्मिनलों से अपने खाते में पड़ी शेष राशि को देखने के समर्थ बनाने के लिए आवश्यक प्रावधान करेंगे।

16. न्यासी बोर्ड और नियोक्ता कर्मचारी भविष्य निधि संगठन द्वारा यथा विहित रूप में ये विवरणियां विनिर्दिष्ट समय सीमा के भीतर मासिक/वार्षिक रूप से दायर करेंगे, जिसे न करने पर इसे चूक माना जाएगा तथा न्यासी बोर्ड और नियोक्ता संयुक्त रूप से और अलग-अलग, कर्मचारी भविष्य निधि संगठन द्वारा की जाने वाली उपयुक्त दाष्ठिक कर्माई के भागी होंगे।

17. न्यासी बोर्ड समय-समय पर सरकार के निर्देशों के अनुसार भविष्य निधि के पैसे का निवेश करेगा। सरकार के निर्देशों के अनुसार निवेश करने में असफल होने पर न्यासी बोर्ड अलग-अलग और संयुक्त रूप से केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधि द्वारा यथा अधिरोपित अधिशुल्क का भागी बन जाएगा।

18.(क) प्रतिभूतियां न्यास के नाम से प्राप्त की जाएंगी। इस प्रकार प्राप्त की गई प्रतिभूतियां अभौतिक (डीमेट) रूप में होनी चाहिए तथा न्यास के कार्यालय रहने वाले क्षेत्रों में अपेक्षित सुविधा के उपलब्ध न होने की स्थिति में न्यासी बोर्ड संबंधित क्षेत्रीय भविष्य निधि आयुक्त को इसकी सूचना देंगे।

(ख) न्यासी बोर्ड लिपि-वार रजिस्टर बनाएगा तथा व्याज की समय पर उगाही सुनिश्चित करेगा।

(ग) डीमेट खाता इस संबंध में केन्द्रीय सरकार द्वारा जारी अनुदेशों के अनुसार भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागर प्रतिभागियों के माध्यम से खोला जाए।

(घ) डीमेट खाते का खर्च न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाए। प्रतिभूतियों आदि की खरीद की दलाली जैसे निवेशों के सभी प्रकार के खर्चों को भी न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाएगा।

19. प्रतिभूतियों और बाण्डों की खरीद जैसे ऐसे निवेश भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागर प्रतिभागियों की सुरक्षा अभिरक्षा में दर्ज किए जाएं, जो इसके संरक्षक होंगे। स्थापना की बंदी या परिसमाप्त या कर्मचारी भविष्य निधि, 1952 से छूट पर यह संरक्षक, न्यास के नाम पर प्राप्त तथा अपने जमा में पड़े निवेश को संबंधित क्षेत्रीय भविष्य निधि आयुक्त के, इस आशय के अनुरोध पर संबंधित क्षेत्रीय भविष्य निधि आयुक्त को सीधे अंतरित करेगा।

20. स्थापना संबंधित क्षेत्रीय भविष्य निधि आयुक्त को उन निक्षेपागर प्रतिभागियों (भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित) के विवरण से सूचित करेगी, जिनके पास तथा जिनकी सुरक्षा अभिरक्षा में न्यास के मान पर किए गए निवेश अर्थात् प्रतिभूतियों, बाण्डों आदि में किए गए निवेश दर्ज किए गए हैं। तथापि, न्यासी बोर्ड उस

धनराशि की उगाही कर सकता है, जो दावों के निपटान, नियमानुसार अग्रिमों की मंजूरी और नियोक्ता की सेवा छोड़ने की स्थिति में सदस्य के भविष्य निधि संचयन के अंतरण और प्रतिभूतियों की बिक्री द्वारा अन्य किसी प्राप्तियों अथवा क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के शर्ताधीन निधि के नाम में पड़े अन्य निवेशों जैसे बाध्यकारी व्ययों को पूरा करने के लिए अपेक्षित हों।

21. न्यास द्वारा किए गए निवेशों के लिए किसी वित्तीय या अन्य संस्थाओं द्वारा दिए जाने वाले किसी कमीशन, प्रोत्साहन, बोनस या अन्य आर्थिक लाभ इसके खाते में डाले जाएं।

22. नियोक्ता और न्यासी बोर्ड के सदस्य शर्तों का पालन करने की सहमति देते हुए लिखित वचन देंगे तथा यह वैधिक रूप से नियोक्ता और न्यासी बोर्ड के उत्तराधिकारियों और समनुदेशितों पर उनके साथ-साथ बाध्यकारी होगा।

23. नियोक्ता और न्यासी बोर्ड छूट के रद्द होने कि स्थिति में संबंधित क्षेत्रीय भविष्य निधि आयुक्त द्वारा विहित समय सीमा के भीतर तत्काल निधियों का अंतरण करने का वचन भी देगा। यह उन पर कानूनी रूप से बाध्यकारी होगा तथा उन्हें निधियों के अंतरण में कोई विलंब होने की स्थिति में अभियोजन का भागी बनाएगा।

24.(क) न्यासी बोर्ड द्वारा अनुरक्षित भविष्य निधि खाता किसी योग्य स्वतंत्र चार्टर्ड लेखाकार द्वारा वार्षिक रूप से लेखा-परीक्षा करने के शर्ताधीन होगा। जहां भी आवश्यक समझा जाए, वहां कर्मचारी भविष्य निधि संगठन को अधिकार होगा कि यह किसी अन्य योग्य लेखा-परीक्षक द्वारा खातों की लेखा-परीक्षा कराए तथा इस प्रकार हुए खर्च नियोक्ता द्वारा वहन किए जाएंगे।

(ख) लेखा-परीक्षकों द्वारा वित्तीय वर्ष अर्थात् 1 अप्रैल से 31 मार्च तक की समाप्ति के बाद छह महीने के भीतर लेखा-परीक्षीत तुलन-पत्र सहित लेखा-परीक्षक की रिपोर्ट की प्रति सीधे इस कार्यालय में प्रस्तुत की जाए। तुलन-पत्र का प्रारूप और इस रिपोर्ट में प्रस्तुत की जाने वाली जानकारी कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित की जाएगी तथा संबंधित क्षेत्रीय भविष्य निधि आयुक्त के कार्यालय में इलैक्ट्रॉनिक प्रारूप के साथ हस्ताक्षरित प्रतिलिपि में उपलब्ध कराई जाएगी।

(ग) एक ही लेखा-परीक्षकों को लगातार दो वर्ष के लिए तथा अगले वित्तीय वर्ष के पहले दिन से मिली छूट से अधिक के लिए नियुक्त न किया जाए।

25. लगातार तीन वित्तीय वर्षों तक कोई हानि या पूँजी आधार में कटौती को अगले वित्तीय वर्ष के पहले दिन से मिली छूट प्राप्त होगी।

26. नियोक्ता प्रत्येक माह की समाप्ति से 15 दिन के भीतर निरीक्षण हेतु ऐसी सुविधाओं का प्रावधान करेगा तथा ऐसे निरीक्षण प्रभारों का भुगतान करेगा जो केन्द्रीय सरकार द्वारा अधिनियम की धारा 17 के उप-खण्ड (3) के खण्ड (क) के अंतर्गत समय-समय पर दिए निर्देशों के अनुसार हों।

27. न्यासी बोर्ड या नियोक्ता द्वारा छूट देने के लिए शर्तों के किसी उल्लंघन की स्थिति में दी गई छूट संबंधित व्यक्ति को इस संबंध में कारण बताओ नोटिस जारी करने के बाद रद्द कर दी जाएगी।

28. किसी भी धोखे, गबन, गलत निवेश निर्णयों आदि के फलस्वरूप ट्रस्ट को हुए किसी भी नुकसान की स्थिति में नियोक्ता नुकसान पूरा करने का भागी होगा।

29. किसी विलय, अविलय, अभिग्रहण, बिक्री, एकीकरण, सहायक कंपनी का गठन चाहे पूर्णतः स्वामित्व वाली हो या नहीं इत्यादी के फलस्वरूप यदि प्रतिष्ठान की कानूनी स्थिति में कोई भी बदलाव होता है तो दी गई छूट निरस्त होगी एवं प्रतिष्ठान को तुरंत नई छूट देने के लिए मामले की रिपोर्ट करनी चाहिए।

30. एक ही भविष्य निधि ट्रस्ट में एक से अधिक इकाई/प्रतिष्ठानों के भाग लेने की स्थिति में भाग लेने वाली इकाइयों के किसी भी ट्रस्टी/नियोक्ता द्वारा कोई भी चूक होने पर सभी ट्रस्टी संयुक्त रूप से अलग से जिम्मेदार/उत्तरदायी होंगे और आरपीएफसी आम भविष्य निधि ट्रस्ट के सभी न्यासियों के विरुद्ध उपयुक्त कानूनी कार्रवाई करेगा।

31. केन्द्र सरकार प्रतिष्ठान की छूट की निरंतरता के लिए शर्तों को बढ़ा सकती है और जब भी इनको संप्रेषित किया जाएगा ये प्रतिष्ठान इन अतिरिक्त शर्तों का अनुपालन करने के लिए बाध्य होंगे।

New Delhi, the 19th August, 2014

**S.O. 2248.**—Whereas M/s. Consulting Engineering Services (India) Pvt. Ltd. [under Code No. DL/3698 in Regional Office, Delhi (South)] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions annexed with this notification, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 29-5-1974 until further notification.

[No. S-35015/68/2014-SS-II]

SUBHASH KUMAR, Under Secy.

## ANNEXURE

### **CONDITIONS FOR GRANT OF EXEMPTION FROM THE PROVISIONS OF EMPLOYEES PROVIDENT FUND SCHEME, 1952**

1. The employer shall establish a Board of Trustees under his Chairmanship for the management of the Provident Fund according to such directions as may be given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Funds Organisation, inter alia, for proper accounts of the receipts into and payment from the Provident Fund and the balance in their custody. For this purpose, the "employer" shall mean :

- (i) In relation to an establishment, which is a factory, the owner or occupier of the factory: and .
- (ii) In relation to any other establishment, the person who, or the authority, that has the ultimate control over the affairs of the establishment.

2. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner (CPFC) or an officer authorized by him.

3. All employees' as defined in section 2(f) of the act, who have been eligible to become members of the Provident Fund' had the establishment not been granted exemption, shall be enrolled as members.

4. Where an employee who is already a member of Employees' Provident fund or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund. The employer should also arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited into his account.

5. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and employees at the rate prescribed under the act from time to time by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of Section 7Q of the Act for any delay in payment of any dues towards the Board of Trustees.

6. The employer shall bear all the expenses of the administration of Provident Fund and also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.

7. Any deficiency in the interest declared by the Board of Trustees is to be made good by the employer to bring it up to the statutory limit.

8. The employer shall display on the notice board of the establishment, a copy of the rules of the funds as approved by the appropriate authority and as and when amended thereto along with a translation in the language of the majority of the employees.

9. The rate of contributions payable, the conditions and quantum of advances and other matters laid down under the provident fund rules of the establishment and the interest credited to the account of each member, calculated on the monthly running balance of the member and declared by the Board of Trustees shall not be lower than those declared by the Central government under the various provisions prescribed in the Act and Scheme framed thereunder.

10. Any amendment to the Scheme, which is more beneficial to the employees than the existing rules of the establishment, shall be made applicable to them automatically pending formal amendment of the Rules of the Trust.

11. No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner. The Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.

12. All claims for withdrawals, advances and transfers should be settled expeditiously, within the maximum time frame prescribed by the Employees' Provident Fund Organisation.

13. The Board of Trustees shall maintain detailed accounts to show the contributions credited withdrawal and interest in respect of each employee. The maintenance of such records should preferably be done electronically. The establishments should periodically transmit the details of members' accounts electronically as and when directed by the Central Provident Commissioner/Regional Provident Fund Commissioner.

14. The Board of Trustees shall issue an annual statement of accounts or pass books to every employee within six months of the close of financial/accounting year free of cost once in the year. Additional printouts can be made available as and when the members want, subject to nominal charges. In case of passbook, the same shall remain in custody of employee to be updated periodically by the Trustees when presented to them.

15. The employer shall make necessary provisions to enable all the members to be able to see their account balance from the computer terminals as and when required by them.

16. The Board of Trustees and the employer shall file such returns monthly/annually as may be prescribed by the Employees' Provident Fund Organisation within the specified time limit, failing which it will be deemed as a

default and the Board of Trustees and employer will jointly and separately be liable for suitable penal action by the Employees' Provident Fund Organisation.

17. The Board of Trustees shall invest the monies of the provident fund as per the directions of the Government from time to time. Failure to make investments as per directions of the Government shall make the Board of Trustees separately and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.

18. (a) The securities shall be obtained in the name of Trust. The securities so obtained should be in dematerialized (DEMAT) form and in case the required facility is not available in the areas where the trust operates the Board of Trustees shall inform the Regional Provident Fund Commissioner concerned about the same.
- (b) The Board of Trustees shall maintain a script wise register and ensure timely realization of interest.
- (c) The DEMAT Account should be opened through depository participants approved by Reserve Bank of India and Central Government in accordance with the instructions issued by the Central Government in this regard.
- (d) The cost of maintaining DEMAT account should be treated as incidental cost of investment by the Trust. Also all types of cost of investments like brokerage for purchase of securities etc. shall be treated as incidental cost of investment by the Trust.

19. All such investments made like purchase of securities and bonds, should be lodged in the safe custody of depository participants approved by Reserve Bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952 such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the Regional PF Commissioner concerned directly on receipt of request from the Regional PF Commissioner concerned to that effect.

20. The establishment shall intimate to the Regional P.F. Commissioner concerned the details of depository participants (approved by RBI and Central Government), with whom and in whose safe custody, the investments made in the name of trust, viz., investments made in securities, bonds, etc. have been lodged. However, the Board of Trustees may raise such sum of sums of money as may be required for meeting obligatory expenses such as settlement of claims, grant of advances as per rules and transfer of member's PF accumulations in the event of his/her leaving service of the employer and any other receipts by sale of the securities or other investments standing in the name of the Fund subject to the prior approval of the Regional PF Commissioner.

21. Any commission, incentive, bonus or other pecuniary rewards given by any financial or other institutions for the investments made by the Trust should be credited to its account.

22. The employer and the members of the Board of Trustees, shall furnish a written undertaking agreeing to abide by the conditions and this shall be legally binding on the employer and the Board of Trustees, including their successors and assignees.

23. The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the event of cancellation of relaxation. This shall be legally binding on them and will make them liable for prosecution in the event of any delay in the transfer of funds.

24. (a) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent chartered accountant annually. Where considered necessary the EPFO shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.
- (b) A copy of the Auditor's report alongwith the audited balance sheet should be submitted to this office by the Auditors directly within six months after the closing of the financial year from 1st April to 31st March. The format of the balance sheet and the information to be furnished in the report shall be prescribed by the Employees' Provident fund Organisation and made available with the RPFC office in electronic format as well as a signed hard copy.
- (c) The same auditors should not be appointed for two consecutive years and not more than the relaxation withdrawn from the first day of the next succeeding financial year.

25. Any loss for the three consecutive financial years or erosion in the capital base shall have the relaxation withdrawn from the first day of the next succeeding financial year.

26. The employer shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of Section 17 of the Act within 15 days from the close of every month.

27. In the event of any violation of the conditions for grant of relaxation, by the employer or the Board of Trustees, the relaxation granted shall be cancelled after issuing a show cause notice in this regard to the concerned persons.

28. In the event of any loss to the trust as a result of any fraud, defalcation, wrong investment decisions etc. the employer shall be liable to make good the loss.

29. In case of any change of legal status of the establishment as a result of merger, de-merger, acquisition, sale, amalgamation, formation of a subsidiary, whether wholly owned or not etc., the relaxation granted shall stand revoked and the establishment should promptly report the matter for grant of fresh relaxation.

30. In case there are more than one unit/establishment participating in the common Provident Fund Trust, all the trustees shall be jointly and separately liable/responsible for any default committed by any of the trustees/employer of any of the participating units and the RPFC shall take suitable legal action against all the trustees of the common Provident Fund Trust.

31. The Central Government may lay down further conditions for continuation of exemption of the establishment and the establishment shall be bound to comply with these additional conditions as and when the same are communicated.

नई दिल्ली, 19 अगस्त, 2014

**का.आ. 2249.**—जबकि मैसर्स इंडिया सिलका मेगनिस्ट वर्कस लिमिटेड (कोड संख्या डब्ल्यूबी/42487 के अंतर्गत पार्क स्ट्रीट उप-क्षेत्रीय कार्यालय में) (एतदुपरांत प्रतिष्ठान के रूप में संदर्भित) ने कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) (एतदुपरांत अधिनियम के रूप में संदर्भित) की धारा 17 की उप-धारा (1) के खण्ड (क) के अंतर्गत छूट के लिए आवेदन किया है।

2. और जबकि केन्द्र सरकार के विचार में अंशदान की दरों के संबंध में उक्त प्रतिष्ठान के भविष्य निधि नियम उक्त अधिनियम की धारा 6 में विनिर्दिष्ट नियमों की तुलना में कर्मचारियों के लिए कम उपयुक्त नहीं है और कर्मचारी सदृश स्वरूप के किसी अन्य प्रतिष्ठान में कर्मचारियों के संबंध में उक्त अधिनियम अथवा कर्मचारी भविष्य निधि योजना, 1952 (एतदुपरांत योजना के रूप में संदर्भित) के अंतर्गत उपलब्ध अन्य भविष्य निधि प्रसुविधाओं का भी लाभ उठा रहे हैं।

3. अतः, अब, केन्द्र सरकार उक्त अधिनियम की धारा 17 की उप-धारा (1) के खण्ड (क) अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना के साथ संलग्न शर्तों के अध्याधीन, एतद्वारा उक्त योजना के सभी उपबंधों के प्रचालन से 01-12-2007 से अगले अधिसूचना तक उक्त प्रतिष्ठान को छूट प्रदान करती है।

[सं. एस-35015/42/2014-एसएस-II]

सुभाष कुमार, अवर सचिव

अनुबंध

**कर्मचारी भविष्य निधि योजना, 1952 के उपबंधों से छूट प्रदान करने संबंधी शर्तें**

1. नियोक्ता समय-समय पर केन्द्रीय सरकार अथवा केन्द्रीय भविष्य निधि आयुक्त, जैसी भी स्थिति हो, द्वारा दिए जाने वाले ऐसे निर्देशों

के अनुसार भविष्य निधि के प्रबंधन हेतु अपनी अध्यक्षता में एक न्यासी बोर्ड गठित करेगा। भविष्य निधि न्यासी बोर्ड में विहित होगी जो अन्य बातों के साथ-साथ कर्मचारी भविष्य निधि संगठन के प्रति भविष्य निधि में प्राप्तियों और उसमें से भुगतान के उचित लेखों और उनकी अभिरक्षा में शेष राशि के लिए उत्तरदायी होगा। इस प्रयोजनार्थ, “नियोक्ता” से :—

- (i) किसी प्रतिष्ठान, जो एक कारखाना हो, उसके संबंध में, कारखाने का स्वामी अथवा अधिष्ठाता अभिप्रेत होगा; और
- (ii) किसी अन्य प्रतिष्ठान के संबंध में, वह व्यक्ति, अथवा प्राधिकारी अभिप्रेत होगा, जिसका उस प्रतिष्ठान के कामकाज पर अंतिम नियंत्रण हो।

2. न्यासी बोर्ड हरेक तिमाही में कम से कम एक बार बैठक करेगा और वह केन्द्र सरकार/केन्द्रीय भविष्य निधि आयुक्त (सीपीएफसी) अथवा उसके द्वारा प्राधिकृत किसी अधिकारी द्वारा समय समय पर जारी किए जाने वाले दिशानिर्देशों के अनुसार कार्य करेगा।

3. अधिनियम की धारा 2(च) में यथा परिभाषित सभी कर्मचारी, जो भविष्य निधि के सदस्य बनने के पात्र रहे हैं; यदि प्रतिष्ठान को छूट प्रदान नहीं की होती, उन्हें सदस्यों के रूप में नामांकित किया जाएगा।

4. जहां कोई कर्मचारी जो पहले ही किसी अन्य छूट-प्राप्त प्रतिष्ठान के किसी कर्मचारी भविष्य निधि अथवा भविष्य निधि का सदस्य हो, उसे उसके प्रतिष्ठान में नियोजित किया जाता है, तो नियोक्ता उसे तत्काल निधि के सदस्य के रूप में नामांकित करेगा। नियोक्ता ऐसे कर्मचारी के भविष्य निधि खाते में उसके पहले नियोक्ता से संचय राशियां अंतरित और जमा करवाने की भी व्यवस्था करेगा।

5. नियोक्ता भविष्य निधि को उसके द्वारा और कर्मचारी के द्वारा समय-समय पर अधिनियम के अंतर्गत निर्धारित दर से देय अंशदान को, जिस माह के लिए अंशदान देय हों उसके बाद के माह की 15 तारीख तक न्यासी बोर्ड को अंतरित करेगा। नियोक्ता न्यासी बोर्ड को किन्तु देयों के भुगतान में किसी विलम्ब के लिए अधिनियम की धारा 7थ के उपबंधों के अनुसार साधारण ब्याज अदा करने का दायी होगा।

6. नियोक्ता भविष्य निधि के प्रशासन के सभी व्यय वहन करेगा और चोरी, डकैती, गबन, दुर्बिन्योग अथवा किसी अन्य कारण से भविष्य निधि को हो सकने वाले किसी घाटे की भी भरपाई करेगा।

7. न्यासी बोर्ड द्वारा घोषित ब्याज में किसी कमी को भी नियोक्ता द्वारा पूरा किया जाना होगा और उसे संविधिक सीमा तक लाना होगा।

8. नियोक्ता जब कभी नियम संशोधित किए जाएं, समुचित प्राधिकारी द्वारा यथा अनुमोदित, निधि के नियमों की एक प्रति अधिसंघ्यक कर्मचारियों की भाषा में उनके अनुवाद सहित प्रतिष्ठान के सूचना पट पर प्रदर्शित करेगा।

9. प्रतिष्ठान के भविष्य निधि नियमों के अंतर्गत निर्धारित देय अंशदान की दर, अग्रिम की शर्तें और मात्रा तथा अन्य मामले और

सदस्य के मासिक चालू शेष पर संगणित और न्यासी बोर्ड द्वारा घोषित, प्रत्येक सदस्य के खाते में जमा किया गया ब्याज, अधिनियम और उसके अंतर्गत निर्मित योजना में निर्धारित विभिन्न उपबंधों के अंतर्गत केन्द्र सरकार द्वारा घोषित दर से कम नहीं होगा।

10. योजना में कोई संशोधन, जो प्रतिष्ठान के विद्यमान नियमों की तुलना में कर्मचारियों के लिए अधिक लाभदायक हो, उसे न्यास के नियमों में औपचारिक संशोधन के लिए रहते उन पर स्वतः लागू किया जाएगा।

11. नियोक्ता द्वारा नियमों में कोई भी संशोधन क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के बिना नहीं किया जाएगा। क्षेत्रीय भविष्य निधि आयुक्त अपना अनुमोदन देने से पूर्व कर्मचारियों को अपना रुख स्पष्ट करने का वाजिब अवसर देगा।

12. निकासी, अग्रिम और अंतरण के सभी दावे कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित अधिकतम समय सीमा के भीतर, शीघ्रता से निपटाए जाएंगे।

13. न्यासी बोर्ड प्रत्येक कर्मचारी के संबंध में जमा किए गए अंशदान, निकासी और ब्याज दर्शने के लिए विस्तरित लेखों का रख-रखाव करेगा। ऐसे अभिलेखों का रख-रखाव अधिमानतः इलैक्ट्रॉनिक रूप से रखा जाएगा। प्रतिष्ठान आवधिक रूप से जब कभी केन्द्रीय भविष्य निधि आयुक्त/क्षेत्रीय भविष्य निधि आयुक्त द्वारा निदेश दिया जाए, सदस्यों के लेखों को इलैक्ट्रॉनिक रूप से सम्प्रेषित करेंगे।

14. न्यासी बोर्ड वर्ष में एक बार वित्तीय/लेखा वर्ष के समाप्त होने के छः माह के भीतर प्रत्येक कर्मचारी को निःशुल्क लेखों का वार्षिक विवरण अथवा पासबुक जारी करेगा। जब कभी सदस्य चाहें, अतिरिक्त प्रिंटआउट नाममात्र के प्रभार के साथ उपलब्ध कराए जा सकते हैं। पासबुक के मामले में वह कर्मचारी के पास रहेगी जिसे प्रस्तुत किए जाने पर न्यासियों द्वारा आवधिक रूप से अद्यतन किया जाएगा।

15. नियोक्ता सभी सदस्यों को उनकी आवश्यकतानुसार कम्प्यूटर टर्मिनलों से अपने खाते में पड़ी शेष राशि को देखने के समर्थ बनाने के लिए आवश्यक प्रावधान करेंगे।

16. न्यासी बोर्ड और नियोक्ता कर्मचारी भविष्य निधि संगठन द्वारा यथा विहित रूप में ये विवरणियां विनिर्दिष्ट समय सीमा के भीतर मासिक/वार्षिक रूप से दायर करेंगे, जिसे न करने पर इसे चूक माना जाएगा तथा न्यासी बोर्ड और नियोक्ता संयुक्त रूप से और अलग-अलग, कर्मचारी भविष्य निधि संगठन द्वारा की जाने वाली उपयुक्त दापिङ्क कारवाई के भागी होंगे।

17. न्यासी बोर्ड समय-समय पर सरकार के निर्देशों के अनुसार भविष्य निधि के पैसे का निवेश करेगा। सरकार के निर्देशों के अनुसार निवेश करने में असफल होने पर न्यासी बोर्ड अलग-अलग और संयुक्त रूप से केन्द्रीय भविष्य निधि आयुक्त या उसके प्रतिनिधि द्वारा यथा अधिरोपित अधिशुल्क का भागी बन जाएगा।

18.(क) प्रतिभूतियां न्यास के नाम से प्राप्त की जाएंगी। इस प्रकार प्राप्त की गई प्रतिभूतियां अभौतिक (डीमेट) रूप में होनी

चाहिए तथा न्यास के कार्यचालित रहने वाले क्षेत्रों में अपेक्षित सुविधा के उपलब्ध न होने की स्थिति में न्यासी बोर्ड संबंधित क्षेत्रीय भविष्य निधि आयुक्त को इसकी सूचना देंगे।

(ख) न्यासी बोर्ड लिपि-वार रजिस्टर बनाएगा तथा ब्याज की समय पर उगाही सुनिश्चित करेगा।

(ग) डीमेट खाता इस संबंध में केन्द्रीय सरकार द्वारा जारी अनुदेशों के अनुसार भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों के माध्यम से खोला जाए।

(घ) डीमेट खाते का खर्च न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाए। प्रतिभूतियों आदि की खरीद की दलाली जैसे निवेशों के सभी प्रकार के खर्चों को भी न्यास द्वारा किए जाने वाले निवेश का प्रासंगिक व्यय माना जाएगा।

19. प्रतिभूतियों और बाण्डों की खरीद जैसे ऐसे निवेश भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित निक्षेपागार प्रतिभागियों की सुरक्षा अभिरक्षा में दर्ज किए जाएं, जो इसके संरक्षक होंगे। स्थापना की बंदी या परिसमाप्त या कर्मचारी भविष्य निधि, 1952 से छूट पर यह संरक्षक, न्यास के नाम पर प्राप्त तथा अपने जमा में पड़े निवेश को संबंधित क्षेत्रीय भविष्य निधि आयुक्त के, इस आशय के अनुरोध पर संबंधित क्षेत्रीय भविष्य निधि आयुक्त को सीधे अंतरित करेंगे।

20. स्थापना संबंधित क्षेत्रीय भविष्य निधि आयुक्त को उन निक्षेपागार प्रतिभागियों (भारतीय रिजर्व बैंक और केन्द्रीय सरकार द्वारा अनुमोदित) के विवरण से सूचित करेगी, जिरके पास तथा जिनकी सुरक्षा अभिरक्षा में न्यास के मान पर किए गए निवेश अर्थात् प्रतिभूतियों, बाण्डों आदि में किए गए निवेश दर्ज किए गए हैं। तथापि, न्यासी बोर्ड उस धनराशि की उगाही कर सकता है, जो दावों के निपटान, नियमानुसार अग्रिमों की मंजूरी और नियोक्ता की सेवा छोड़ने की स्थिति में सदस्य के भविष्य निधि संचयन के अंतरण और प्रतिभूतियों की बिक्री द्वारा अन्य किसी प्राप्तियों अथवा क्षेत्रीय भविष्य निधि आयुक्त के पूर्व अनुमोदन के शर्ताधीन निधि के नाम में पड़े अन्य निवेशों जैसे बाध्यकारी व्ययों को पूरा करने के लिए अपेक्षित हों।

21. न्यास द्वारा किए गए निवेशों के लिए किसी वित्तीय या अन्य संस्थाओं द्वारा दिए जाने वाले किसी कमीशन, प्रोत्साहन, बोनस या अन्य आर्थिक लाभ इसके खाते में डाले जाएं।

22. नियोक्ता और न्यासी बोर्ड के सदस्य शर्तों का पालन करने की सहमति देते हुए लिखित वचन देंगे तथा यह वैधिक रूप से नियोक्ता और न्यासी बोर्ड के उत्तराधिकारियों और समनुदेशियों पर उनके साथ-साथ बाध्यकारी होगा।

23. नियोक्ता और न्यासी बोर्ड छूट के रद्द होने की स्थिति में संबंधित क्षेत्रीय भविष्य निधि आयुक्त द्वारा विहित समय सीमा के भीतर तत्काल निधियों का अंतरण करने के वचन भी देगा। यह उन

पर कानूनी रूप से बाध्यकारी होगा तथा उन्हें निधियों के अंतरण में कोई विलंब होने की स्थिति में अभियोजन का भागी बनाएगा।

24.(क) न्यासी बोर्ड द्वारा अनुरक्षित भविष्य निधि खाता किसी योग्य स्वतंत्र चार्टर्ड लेखकार द्वारा वार्षिक रूप से लेखा-परीक्षा करने के शर्ताधीन होगा। जहां भी आवश्यक समझा जाए, वहां कर्मचारी भविष्य निधि संगठन को अधिकार होगा कि यह किसी अन्य योग्य लेखा-परीक्षक द्वारा खातों की लेखा-परीक्षा कराए तथा इस प्रकार हुए खर्च नियोक्ता द्वारा वहन किए जाएंगे।

(ख) लेखा-परीक्षकों द्वारा वित्तीय वर्ष अर्थात् 1 अप्रैल से 31 मार्च तक की समाप्ति के बाद छह महीने के भीतर लेखा-परीक्षीत तुलन-पत्र सहित लेखा-परीक्षक की रिपोर्ट की प्रति सीधे इस कार्यालय में प्रस्तुत की जाए। तुलन-पत्र का प्रारूप और इस रिपोर्ट में प्रस्तुत की जाने वाली जानकारी कर्मचारी भविष्य निधि संगठन द्वारा निर्धारित की जाएगी तथा संबंधित क्षेत्रीय भविष्य निधि आयुक्त के कार्यालय में इलैक्ट्रॉनिक प्रारूप के साथ हस्ताक्षरित प्रतिलिपि में उपलब्ध कराई जाएगी।

(ग) एक ही लेखा-परीक्षकों को लगातार दो वर्ष के लिए तथा अगले वित्तीय वर्ष के पहले दिन से मिली छूट से अधिक के लिए नियुक्त ना किया जाए।

25. लगातार तीन वित्तीय वर्षों तक कोई हानि या पूँजी आधार में कटौती को अगले वित्तीय वर्ष के पहले दिन से मिली छूट प्राप्त होगी।

26. नियोक्ता प्रत्येक माह की समाप्ति से 15 दिन के भीतर निरीक्षण हेतु ऐसी सुविधाओं का प्रावधान करेगा तथा ऐसे निरीक्षण प्रभारों का भुगतान करेगा जो केन्द्रीय सरकार द्वारा अधिनियम की धारा 17 के उप-खण्ड (3) के खण्ड (क) के अंतर्गत समय-समय पर दिए निर्देशों के अनुसार हों।

27. न्यासी बोर्ड या नियोक्ता द्वारा छूट देने के लिए शर्तों के किसी उल्लंघन की स्थिति में दी गई छूट संबंधित व्यक्ति को इस संबंध में कारण बताओ नोटिस जारी करने के बाद रद्द कर दी जाएगी।

28. किसी भी धोखे, गबन, गलत निवेश निर्णयों आदि के फलस्वरूप ट्रस्ट को हुए किसी भी नुकसान की स्थिति में नियोक्ता नुकसान पूरा करने का भागी होगा।

29. किसी विलय, अविलय, अभिग्रहण, बिक्री, एकीकरण, सहायक कंपनी का गठन चाहे पूर्णतः स्वामित्व वाली हो या नहीं इत्यादी के फलस्वरूप यदि प्रतिष्ठान की कानूनी स्थिति में कोई भी बदलाव होता है तो दी गई छूट निरस्त होगी एवं प्रतिष्ठान को तुरंत नई छूट देने के लिए मामले की रिपोर्ट करनी चाहिए।

30. एक ही भविष्य निधि ट्रस्ट में एक से अधिक इकाई/प्रतिष्ठानों के भाग लेने की स्थिति में भाग लेने वाली इकाइयों के किसी भी ट्रस्टी/नियोक्ता द्वारा कोई भी चूक होने पर भी ट्रस्टी संयुक्त रूप से अलग से जिम्मेदार/उत्तरदायी होंगे और आरपीएफसी आम भविष्य निधि ट्रस्ट के सभी न्यासियों के विरुद्ध उपयुक्त कानूनी कार्रवाई करेगा।

31. केन्द्र सरकार प्रतिष्ठान की छूट की निरंतरता के लिए शर्तों को बढ़ा सकती है और जब भी इनको संप्रेषित किया जाएगा ये प्रतिष्ठान इन अतिरिक्त शर्तों का अनुपालन करने के लिए बाध्य होंगे।

New Delhi, the 19th August, 2014

**S.O. 2249.**—Whereas M/s. India Silica Magnesite Works Ltd. [under Code No. WB/42487 in Sub-Regional Office, Park Street] (hereinafter referred to as the establishment) has applied for exemption under clause (a) of sub-section (1) of Section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) (hereinafter referred to as the Act).

2. And whereas in the opinion of the Central Government, the rules of the provident fund of the said establishment with respect to the rates of contribution are not less favourable to employees therein than those specified in Section 6 of the said Act and the employees are also in enjoyment of other provident fund benefits provided under the said Act or under the Employees' Provident Funds Scheme, 1952 (hereinafter referred to as the Scheme) in relation to the employees in any other establishment of similar character.

3. Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (1) of Section 17 of the said Act and subject to the conditions annexed with this notification, the Central Government, hereby, exempts the said establishment from the operation of all the provisions of the said Scheme with effect from 1-12-2007 until further notification.

[No. S-35015/42/2014-SS-II]

SUBHASH KUMAR, Under Secy.

#### ANNEXURE

#### CONDITIONS FOR GRANT OF EXEMPTION FROM THE PROVISIONS OF EMPLOYEES PROVIDENT FUND SCHEME, 1952

1. The employer shall establish a Board of Trustees under his Chairmanship for the management of the Provident Fund according to such directions as may be given by the Central Government or the Central Provident Fund Commissioner, as the case may be, from time to time. The provident fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Funds Organisation, inter alia, for proper accounts of the receipts into and payment from the Provident Fund and the balance in their custody. For this purpose, the "employer" shall mean :

- (i) In relation to an establishment, which is a factory, the owner or occupier of the factory: and .
- (ii) In relation to any other establishment, the person who, or the authority, that has the ultimate control over the affairs of the establishment.

2. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner (CPFC) or an officer authorized by him.
3. All employees' as defined in Section 2(f) of the act, who have been eligible to become members of the Provident Fund' had the establishment not been granted exemption, shall be enrolled as members.
4. Where an employee who is already a member of Employees' Provident fund or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund. The employer should also arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited into his account.
5. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and employees at the rate prescribed under the act from time to time by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay simple interest in terms of the provisions of Section 7Q of the Act for any delay in payment of any dues towards the Board of Trustees.
6. The employer shall bear all the expenses of the administration of Provident Fund and also make good any other loss that may be caused to the Provident Fund due to theft, burglary, defalcation, misappropriation or any other reason.
7. Any deficiency in the interest declared by the Board of Trustees is to be made good by the employer to bring it up to the statutory limit.
8. The employer shall display on the notice board of the establishment, a copy of the rules of the funds as approved by the appropriate authority and as and when amended thereto along with a translation in the language of the majority of the employees.
9. The rate of contributions payable, the conditions and quantum of advances and other matters laid down under the provident fund rules of the establishment and the interest credited to the account of each member, calculated on the monthly running balance of the member and declared by the Board of Trustees shall not be lower than those declared by the Central Government under the various provisions prescribed in the Act and Scheme framed thereunder.
10. Any amendment to the Scheme, which is more beneficial to the employees than the existing rules of the establishment, shall be made applicable to them automatically pending formal amendment of the Rules of the Trust.
11. No amendment in the rules shall be made by the employer without the prior approval of the Regional Provident Fund Commissioner. The Regional Provident Fund Commissioner shall before giving his approval give a reasonable opportunity to the employees to explain their point of view.
12. All claims for withdrawals, advances and transfers should be settled expeditiously, within the maximum time frame prescribed by the Employees' Provident Fund Organisation.
13. The Board of Trustees shall maintain detailed accounts to show the contributions credited withdrawal and interest in respect of each employee. The maintenance of such records should preferably be done electronically. The establishments should periodically transmit the details of members' accounts electronically as and when directed by the Central Provident Commissioner/Regional Provident Fund Commissioner.
14. The Board of Trustees shall issue an annual statement of accounts or pass books to every employee within six months of the close of financial/accounting year free of cost once in the year. Additional printouts can be made available as and when the members want, subject to nominal charges. In case of passbook, the same shall remain in custody of employee to be updated periodically by the Trustees when presented to them.
15. The employer shall make necessary provisions to enable all the members to be able to see their account balance from the computer terminals as and when required by them.
16. The Board of Trustees and the employer shall file such returns monthly/annually as may be prescribed by the Employees' Provident Fund Organisation within the specified time limit, failing which it will be deemed as a default and the Board of Trustees and employer will jointly and separately be liable for suitable penal action by the Employees' Provident Fund Organisation.
17. The Board of Trustees shall invest the monies of the provident fund as per the directions of the Government from time to time. Failure to make investments as per directions of the Government shall make the Board of Trustees separately and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner or his representative.
18. (a) The securities shall be obtained in the name of Trust. The securities so obtained should be in dematerialized (DEMAT) form and in case the required facility is not available in the areas where the trust operates the Board of Trustees shall inform the Regional Provident Fund Commissioner concerned about the same.
- (b) The Board of Trustees shall maintain a script wise register and ensure timely realization of interest.

- (c) The DEMAT Account should be opened through depository participants approved by Reserve Bank of India and Central Government in accordance with the instructions issued by the Central Government in this regard.
- (d) The cost of maintaining DEMAT account should be treated as incidental cost of investment by the Trust. Also all types of cost of investments like brokerage for purchase of securities etc. shall be treated as incidental cost of investment by the Trust.
19. All such investments made like purchase of securities and bonds, should be lodged in the safe custody of depository participants approved by Reserve Bank of India and Central Government, who shall be the custodian of the same. On closure of establishment or liquidation or cancellation of exemption from EPF Scheme, 1952 such custodian shall transfer the investment obtained in the name of the Trust and standing in its credit to the Regional PF Commissioner concerned directly on receipt of request from the Regional PF Commissioner concerned to that effect.
20. The establishment shall intimate to the Regional P.F. Commissioner concerned the details of depository participants (approved by RBI and Central Government), with whom and in whose safe custody, the investments made in the name of trust, viz., investments made in securities, bonds, etc. have been lodged. However, the Board of Trustees may raise such sum of sums of money as may be required for meeting obligatory expenses such as settlement of claims, grant of advances as per rules and transfer of member's PF accumulations in the event of his/her leaving service of the employer and any other receipts by sale of the securities or other investments standing in the name of the Fund subject to the prior approval of the Regional PF Commissioner.
21. Any commission, incentive, bonus or other pecuniary rewards given by any financial or other institutions for the investments made by the Trust should be credited to its account.
22. The employer and the members of the Board of Trustees, shall furnish a written undertaking agreeing to abide by the conditions and this shall be legally binding on the employer and the Board of Trustees, including their successors and assignees.
23. The employer and the Board of Trustees shall also give an undertaking to transfer the funds promptly within the time limit prescribed by the concerned RPFC in the event of cancellation of relaxation. This shall be legally binding on them and will make them liable for prosecution in the event of any delay in the transfer of funds.
24. (a) The account of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent chartered accountant annually. Where considered necessary the EPFO shall have the right to have the accounts re-audited by any other qualified auditor and the expenses so incurred shall be borne by the employer.
- (b) A copy of the Auditor's report alongwith the audited balance sheet should be submitted to this office by the Auditors directly within six months after the closing of the financial year from 1st April to 31st March. The format of the balance sheet and the information to be furnished in the report shall be prescribed by the Employees' Provident fund Organisation and made available with the RPFC office in electronic format as well as a signed hard copy.
- (c) The same auditors should not be appointed for two consecutive years and not more than the relaxation withdrawn from the first day of the next succeeding financial year.
25. Any loss for the three consecutive financial years or erosion in the capital base shall have the relaxation withdrawn from the first day of the next succeeding financial year.
26. The employer shall provide for such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of sub-section (3) of Section 17 of the Act within 15 days from the close of every month.
27. In the event of any violation of the conditions for grant of relaxation, by the employer or the Board of Trustees, the relaxation granted shall be cancelled after issuing a show-cause notice in this regard to the concerned persons.
28. In the event of any loss to the trust as a result of any fraud, defalcation, wrong investment decisions etc. the employer shall be liable to make good the loss.
29. In case of any change of legal status of the establishment as a result of merger, de-merger, acquisition, sale, amalgamation, formation of a subsidiary, whether wholly owned or not etc., the relaxation granted shall stand revoked and the establishment should promptly report the matter for grant of fresh relaxation.
30. In case there are more than one unit/establishment participating in the common Provident Fund Trust, all the trustees shall be jointly and separately liable/responsible for any default committed by any of the trustees/employer of any of the participating units and the RPFC shall take suitable legal action against all the trustees of the common Provident Fund Trust.
31. The Central Government may lay down further conditions for continuation of exemption of the establishment and the establishment shall be bound to comply with these additional conditions as and when the same are communicated.

नई दिल्ली, 12 अगस्त, 2014

**का.आ. 2250.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कार्पोरेशन बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 117/97) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/08/2014 को प्राप्त हुआ था।

[सं. एल-12012/113/96-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 12th August, 2014

**S.O. 2250.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 117/97) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Corporation Bank, and their workmen, received by the Central Government on 11/08/2014.

[No. L-12012/113/96-IR (B-II)]

RAVI KUMAR, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/117/97

PRESIDING OFFICER : SHRI R. B. PATLE

Shri Ajit Singh Jadega,  
Qr. No. 162-163,  
Gudiyari,  
Distt. Raipur .....Workman

#### Versus

Dy.General Manager,  
Corporation Bank, Head office,  
Mangala Devi Campus road,  
Post Box No. 88,  
Bangalore (MP) .....Management

#### AWARD

Passed on this 1st day of July, 2014

1. As per letter dated 29-4-97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/113/96-IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Corporation Bank in relation to their Branch at Raipur in terminating the services of Shri Ajit Singh Jadeja, clerk w.e.f. 5-7-95 is justified? If not, to what relief the workman concerned is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at page 4/1 to 4/7. Case of workman is that he was appointed as clerk at Raipur branch on 9-12-1974. He was offered notional cadre. Considering his unblemished service record, it was alleged that on 7-2-1983, fictitious Saving Account was opened at the branch in the name of Miss Asha Nathani. It was alleged that workman was responsible for opening said fictitious account accepting Rs.10 voucher. He was working at Teller Counter. That if workman would not accepted scrutinized voucher, he would have been responsible for misconduct and disobedience. He acted without negligence. It was also alleged that on 24-2-83, amount of Rs. 50,000/- and on 12-3-84, entry of Rs. 21,000/- was credited in the above Bank account. The Account opening form and credit vouchers were missing from Bank's custody. The alleged credits were posted in the Ledger account of Miss Asha Nathani by Shri A.k.Shrivastava who appeared later as a management witness in the domestic enquiry. It was alleged on 15-3-83 a cheque bearing No. 553773 for Rs.5000/- was posted in the above Savings Bank Account and encashed. Said cheque was also not handled by the workman. This cheque has also been alleged to be missing from the Bank's custody. That chargesheet was issued to workman and peon alleging that they entered office premises at 6.30 PM on 15-3-83 in drunken condition. Said act was concealed and not reported in the complaint filed with the police. That after 10 years of incident, chargesheet was issued to workman. Workman was suspended w.e.f. April 1983. On 27-3-83. Report was submitted to police by Branch Manager. Statements of witnesses K.S.Sessaiya, Vinod Kumar, Chandra Sekhar, Vijay Kumar, Felix D'Souza, A.P.Vajpayee, C.S.Rao, Ashok Kumar, Praveen Kumar, C.N.Dubey & P.P.Mishra were accorded by police. Workman has requested for removal of his suspension and reinstatement in service. After their acquittal by Criminal Court on 19-2-1994, it is submitted that the material witnesses have not attended criminal court even after bailable warrants issued against them. After workman was under suspension for more than 10 years, he was served with chargesheet on 9-9-93. Enquiry was conducted against him is biased in violation of principles of natural justice. Workman had requested production of documents-Teller rough cash book for February and March 1983, balancing book of Savings Bank Ledger, balancing order book, stationery stock register, original page of officers main scroll dated 7-2-83. Workman has reiterated that enquiry was not properly conducted. The witnesses were tutored as they are employees or offices of the Bank. That

the Disciplinary Authority without applying his mind, terminated workman from 5-7-95, peon Deb was reinstated in the bank's service. Workman raised question why Shri Deb was not punished alongwith him and he was singled out for termination of his service. Workman has also referred to Bipartite Settlement providing appeal against order of punishment. That his appeal was dismissed without appropriate reasons. He reiterates that principles of natural justice were not followed. The provision of Desai Award were also not applied. That workman was acquitted by Criminal Court, Punishment imposed against him is in violation of principles of double jeopardy. That Bank illegally recovered Rs.5000/- to debit of Savings Bank Account. The blackmailing tactics worked on the staff and to save their own skin, they attend their statements in the domestic enquiry. The actual culprits are left. On all such grounds, workman is praying for his reinstatement with consequential benefits.

3. IIInd party filed exhaustive Written Statement at page 11/1 to 11/16. Claim of workman is opposed. It is alleged that on 7-2-83, workman while working as clerk in cash department, managed to open fictitious account in name of Miss Asha Nathani. Nathani had never come to Bank for giving her specimen signature for opening account. Workman was working as Special Assistant during 22-2-83 to 8-3-83 taking disadvantage of the post, he made transfer entries in the account of Miss Asha Nathani dated 24-2-83 & 12-3-83 for Rs.50,000/- & Rs.21,000/- respectively. Workman was having custody of cheque books bearing Sl.No.553771 to 553780, he issued cheque No. 553773 dated 15-3-83 for Rs.5000/-. After inspection, it was found that all those documents pertaining to Account No. 1652 of Miss Asha Nathani were missing though the entry was made in ledger book. All other adverse contentions of workman are denied. It is submitted that workman was rightly suspended w.e.f. 22-4-1983 and they were directly involved in misconduct. The incident was reported by Branch Manager to Police on 17-3-83. Acquittal of workman is not disputed but it is submitted that workman was given benefit of doubt while acquitting him. It is open for management to proceed against him by way of clause 19.11, 19.12 of the Bipartite Settlement, the chargesheet was issued to workman. Enquiry was conducted against him giving opportunity for his defence. That amount of Rs.5000/- was fraudulently withdrawn by him on 15-3-83. Enquiry officer submitted his report. Considering report of Enquiry officer, that misconduct alleged against workman were proved, workman was given showcause notice. The punishment imposed against workman is illegal. The domestic enquiry and criminal trial cannot be equated. The contentions of workman that he was not supplied documents in domestic enquiry are denied. Workman has not pointed out specific ingredient of Para 521 of Sastry Award was not followed. All other adverse contentions of workman are denied. IIInd party prayed for rejection of claim of workman.

4. Considering pleadings between parties, my predecessor has framed issues as under. As per order dated 9-2-2011, issue No.1 is answered. Enquiry is held legal. Therefore Issue No.2 has become redundant. My finding on Issue No.3,4 are recorded for the reasons given below.

- |   |                        |
|---|------------------------|
| (i) Whether the action of the management of Whether the Departmental enquiry conducted by the management against the workman is proper and legal? | Enquiry is held legal. |
| (ii) Whether the management is entitled to lead evidence to prove the alleged misconduct of the workman?  | Redundant              |
| (iii) Whether the termination order dated 22-6-95 is valid and legal?   | In Affirmative         |
| (iv) Whether the workman is entitled to reinstatement with back wages?  | In Negative            |
| (v) Relief and costs?   | As per final order.    |

#### REASONS

5. Vide order dated 9-2-2011, my predecessor held that the enquiry conducted against workman is not vitiated. As enquiry conducted against workman is found legal and proper, there is no question of allowing management to lead evidence to prove misconduct alleged against workman. In view of the order passed by my predecessor, Issue No.1 is answered in Affirmative. Issue No.2 doesnot survive.

6. Issue No.3- In view of enquiry conducted against workman is found proper and legal, question remains to be decided is whether the termination of services of workman is valid and legal. Said issue involves question whether the charges of misconduct alleged against workman are proved from evidence in Enquiry Proceedings or findings of Enquiry Officer are perverse.

7. Learned counsel for workman Shri A.K.Shashi during course of argument submitted that workman was suspended on 20-4-83. Chargesheet was issued on 9-9-93 after 10 years of his suspension. The charges against workman were about opening fictitious account in name of Miss Nathani. Entries of Rs.50,000/- & 21,000/- deposited on 24-2-83, 12-3-83 were recorded. Deposit slips were missing. Amount Rs.5000/- was withdrawn on 15-3-83 as per cheque No. 553773. That cheque was missing. It is further submitted that the workman was prosecuted in Criminal Case No. 217/93. He was acquitted by Criminal Court. The witnesses remained absent in Criminal case despite bailable warrants issued by court. After 10 years, they were examined in Departmental Enquiry, their evidence cannot be relied upon. The evidence of material witnesses is not sufficient to prove alleged misappropriation of Rs. 5000/- by workman. Evidence

shows that scroll of Rs.10/- was written by management's witness Vajpayee. There was overwriting in the name. the entry of amount was taken at Sl.No. 23 despite of cheque was missing. Cheque for payment was received by scroll office. The evidence of management's witness Felix D'Souza, Panda, C.S.Rao, Ashok Srivastava is not sufficient to prove the alleged charges. On such argument, learned counsel submits that charges are not proved and termination of workman be set-aside. Workman be reinstated. Learned counsel for 2nd party Narendra Vyas supported the findings of Enquiry Officer and punishment imposed against workman pointing out that evidence of witnesses by Shri C.S.Rao, Panda and A.K.Shrivastava supports findings of Enquiry Officer. That workman had received amount of Rs. 5000/- . The findings of Enquiry Officer are not perverse. Learned counsel prays for rejection of claim of workman. Several citations are also relied by learned counsel for parties.

8. It would be appropriate first to consider the evidence of management's witnesses and then various citations relied by counsel for parties. Incidentally it was submitted that Enquiry Officer has discussed evidence of witnesses of management in his report of enquiry. Chargesheet is issued to workman Exhibit M-1. The misconduct alleged against workman are given exhaustively. That workman was entrusted duties of Special Assistant during 22-2-83 to 8-3-83. He was incharge of cash scroll and cheque books were in his custody. That cheque book containing 10 leafs bearing No. Sl.No.553771 to 553780, he issued cheque No. 553773 dated 15-3-83 for Rs.5000/- In name of Miss Asha Athani, two credit entries of Rs.50,000/- & 21,000/- recorded on 24-2-83, 12-3-83 in said account. However no entries were made in Sub Day book regarding credit of said amount. That amount of Rs.5000/- was withdrawn on 5-3-83 by cheque No. 553773 dated 15-3-83. However cheque was not entered in Sub Day book. Cheque was found missing on 15-3-83. That amount of Rs.5000/- was fraudulently withdrawn when credits of Rs.15,000/- & 21,000/- were made without corresponding debits and from the removal/ destruction of these credit slips. That on 15-3-83, workman along with Shri Dev entered Bank in intoxicated stage and they enquired from officers why they were sitting late. That workman is involved in receiving cash of Rs.10/- towards the opening of SB Account No. 1652, his failure to ensure the entry of cheque book and withdrawal of Rs.5000/- on 5-8-83. Whether all those charges are proved from evidence in Enquiry Proceedings is a matter involved for decision.

9. Learned counsel for 1st party workman Shri A.K. Shashi during course of argument pointed out my attention to the Enquiry Proceeding dated 13-11-93, 11-12-93, 11-2-94, 8-8-94. As enquiry conducted against workman is found legal and proper by my predecessor and as said order has received finality, I do not find substance in argument advanced on above point. Turning to evidence

of management's witnesses MW-1 Vajpayee stated that on 7-5-83 he was Scroll Officer. Workman complained Jadeja was one of the cashier. He did not recollect name of other cashier working on that day. Exhibit M-1 is in handwriting of Shri S.Jadeja against receipt at Sl.No. 61, there is credit of Rs.10/- towards initial deposit in account of Shri Athani. For opening account minimum deposit Rs. 300/- to 500/- is required. In respect of this Account, a cheque book containing cheques leaves numbers 553771 to 553780 was issued. Issue of cheque book should have been shown in between 28-2-83 to 2-3-83. There is no entry in Exhibit M-10. That between 23-2-83 to 8-3-83, Shri Jadeja was Scroll Officer cheque books were in his custody. On 15-3-83, he was Scroll Officer as seen from Exhibit M-3. Cheque No. 55773 was passed for payment. The Debit entry in Exhibit M-3 is in handwriting of Shri C.S.Rao. The corresponding entry is available at Sl.No.23 of Cash Scroll dated 15-3-83. That around 6.45 PM shri Jadeja and Shri Sampat R. Deb came to the branch, they asked in a loud tone as to why he was sitting late when the (R.D) receipt and debit tallied at 4.45 PM. He says that they were in drunken condition. Shri Jadeja was saying to Shri D'Souza why he was locating the difference, he will tally it tomorrow. After such talks they went out of the branch premises. On 16-3-83, Shri Jadeja was sitting in branch at the same seat as he was occupying on 15-3-83 by his side. That D'Zouza noticed the cheque of Rs.5000/- pertaining to A/C No. 1652 was not available. The vouchers about initial deposit Rs.10/- also were not found, both started locating the cheque. They did not find vouchers about Rs.50,000/- & 21,000/-. In his cross-examination, witness says as per procedure Officer should see Account Opening Form practice was in the Bank but the letter was sent to Officer Incharge of cash scroll after issuing card. He verify Account Opening Form and sent to S.B.Account deposit. On 7-2-83, account was opened and checked by Shri Felix D'Souza, Officer. There was the practice of issuing passbook to the account holder. He claims ignorance whether pass book was issued to the Account holder on 7-2-83. His further cross-examination shows that the persons who issue cheque books should ensure that they are issued serially. Cheque books issued on the same day may not sometimes be entered in the serial order but all the cheque books issued during the day will be entered in the cheque book issue register. In his further cross-examination he says that Shri Jadeja was scroll officer from 23-2-83 to 8-3-83. The entries in cash book issued are made by the State Bank Ledger Clerk. The evidence of this witness further shows that on 15-3-83, they were not aware about difference in balance was because of Saving Account No. 1652. He didnot find entry of Rs.5000/- in Sub-day book. On that he told that cheque must be there. Both of them verified cheque of Rs.5000/- but the cheque couldnot be found. They verified the other two previous entries in the ledger for Rs.50,000 & 21,000/-. As there were no entries in the sub-day book for these items, they

verified the corresponding entries in sub Day Book but could not find the entries. He confirmed that the tallying was done basically by Mr. D'Souza. At that time no other person was present in the branch.

10. Witness No.2 Shri Felix D'Souza corroborated the evidence of witness No.1 that entries in sub day book of Rs.50,000/- & 21,000/- and amount of Rs. 5000/- were not found. The cheque was missing. The evidence of management's witness No.1,2 on above point is not shattered in their cross-examination.

11. Witness No.3 Shri B.N.Panda in his evidence stated that Ist party alongwith Deb had come in evening and enquired why they were sitting in the office is not shattered in their cross-examination. Witness No.3 Panda in his evidence says that he was working as clerk, he had made payment of Rs. 5000/- to workman. That Jadeja had come to his residence asking address of Shri C.S.Rao they had gone to house of Shri C.S.Rao. Workman was asking C.S.Rao that he should not tell anyone about payment of Rs.5000/- under cheque to him. In his cross-examination, witness No.3 Panda says that on 15-3-83 he told Enquiry Officer that he did not recollect to whom he had made payment of cheque of Rs. 5000/-. During course of argument, Shri A.K.Shashi emphasized immediately after incident when Witness No.3 did not tell to whom the amount was paid, his statement recorded after 10 years in Departmental Enquiry telling that amount Rs.5000/- was paid to workman cannot be believed. I find substance in above argument. There is no cogent explanation in statement of witness No.3 Panda how he recollected payment of Rs.5000 under cheque to the Ist party workman. The evidence of witness No.3 lacks reliability. Witness No.4 C.S.Rao in his statement says he was working as clerk at Raipur. The entry in respect of Rs.5000/- dated 15-5-83 in ledger folio of Account No. 1652 Exhibit M-3 was made by him. The cheque was given to him by Shri Jadeja. After entering cheque in the ledger, he sent it to Scroll Officer. The entry regarding Rs. 5000/- is not appearing in Sub Day Book. The cheque of Rs. 5000/- did not come back to him. On 15-3-83, entry was not made in Sub day book despite of his objection, Jadeja had taken entry. He had promised to produce cheque. He told him about difference of Rs. 5000/-. Accordingly the witness changed figure in sub day book. That Jadeja had come to his house and requested him not to reveal about issuing token and payment of Rs. 5000/- under cheque. The evidence in cross-examination , witness says that he admits in statement of claim at Page 22 of Exhibit M-20 that Jadeja had told him not to disclose that he issued token to him. The evidence on above point is not shattered in his cross-examination. The evidence of Mr. Balachandra- MW-4 is about inspection carried by him regarding statement of witness including workman. He had submitted detailed report at Exhibit M-20. Evidence of witness Balachandran corroborates with evidence of C.S.Rao, witness Panda on

material particulars that token of amount of Rs.5000/- was issued to him. As evidence of witness Shri Panda is corroborated by those witnesses, their evidence deserve to be accepted. The legal position with respect to the appreciation of evidence in Enquiry proceedings is clear. The Tribunal cannot appreciate evidence. The evidence needs to be considered to decide whether findings of Enquiry Officer are perverse. The evidence of Shri Panda finds corroboration from evidence of Shri C.S.Rao and P.V.Balachandran. It is also corroborated by statements submitted alongwith report Exhibit M-20 by management witness Balachandran. In his report Exhibit M-20, Shri Balachandran has further explained that workman had friendship with Panda and because of it, Panda was reluctant to give statement against the workman. So far as argument advanced by Shri A.K.Shashi about acquittal in criminal case, copy of judgment is produced on record,. Out of 12 witnesses, only evidence of 3 witness was recorded in criminal case. Evidence of material witnesses examined in enquiry were not recorded for want of presence of the witnesses despite of issuing bailable warrants. It is clear that all the witnesses in Enquiry Proceedings were not examined in criminal case and failure to secure their presence. Their statements are recorded in Enquiry Proceedings cannot be discarded only for the reason that workman was acquitted in criminal case.

12. Learned counsel for Ist party workman relies on ratio held in

Case of Mangat Rai versus Punjab Road Transport Corporation and another reported in 1998-LAB-I.C.1827. The ratio held in the case by their Lordship of Punjab and Haryana High Court that Presiding Officer of Labour Court is duty bound to examine on merits evidence recorded by Enquiry Officer and record its own findings on charges leveled against delinquent.

The ratio in above cited case is clear that evidence in Enquiry Proceedings needs to be considered by the Tribunal.

In case of Capt.M.Paul Anthony versus Bharat Gold Mines Ltd. And another reported in 1999(3) Supreme Court Cases 679, their Lordship dealt with the point of simultaneous continuance of with criminal proceedings with Departmental enquiry.

In present case, Departmental Enquiry was initiated after acquittal of workman but with difference that the material witnesses examined in Enquiry Proceedings were not examined as witnesses in criminal case. Therefore the principles laid down in the case cannot be applied to case at hand. For same reasons the observations made in judgment by his Lordship in Writ petition No. 7622/2005 cannot be beneficially applied to present case.

Copy of award passed by undersigned in R/1/01 is also submitted for consideration. Evidence in said case is of auditor making enquiry about misappropriation alleged.

The ratio held in case of Umakant Dwivedi versus State of MP and others in W.P. No. 7622/2005 by M.P. High Court, Jabalpur was relied in said case. In para-14 of the judgment their Lordship dealing with ratio held in case of State of Mysore and others versus shivbasappa Shivappa Makapur, AIR 1963-SC-375 observed that the statement given by a witness previously behind the back of the party, is required to be put to him again in the disciplinary proceedings and is required to be admitted in evidence.

In present case, witness Panda was asked question about his previous statements Exhibit M-3 at Page-20 admitted he did not know to whom amount was paid but evidence of Shri Panda is corroborated by other witnesses discussed above. Therefore ratio held in above case cannot be applied to case at hand.

In case of Sumangal Veerbahadur Rana and State of Maharashtra and others reported in 2000-I-LLJ-896 relied by Shri A.K. Shashi , their Lordship dealing with reliefs of acquittal in criminal proceedings held even though it is not binding, due consideration must be given before applying mind for imposing punishment.

In present case, statement of Shri Panda is corroborated by Shri C.S. Rao and Balachandran. The token of cheque of Rs. 5000 was given to workman. Amount was paid to workman. The evidence on point is not shattered. To be precise, the finding of Enquiry officer are supported by some evidence. The burden of proof beyond reasonable doubt is not applicable to the Departmental proceedings. The proof of misconduct is required to be decided considering the probabilities. It is apparent to say that findings of Enquiry Officer are supported by evidence discussed above.

13. Counsel for management Shri Vyas relies on ratio held in State Bank of India and another versus Bela Bagchi and others reported in 2005-STPL(LE)35024 SC, Divisional Controller KSRTC versus M.G.Vittal Rao reported in STPL(LE)45952 SC. The detailed discussion of ratio held in those cases is not necessary as the evidence discussed above supports the findings of Enquiry Officer. Therefore I record my finding on Point No.1 in Affirmative.

14. Point No.2- In view of my finding in Point No.1, misconduct alleged against workman is proved from evidence in Enquiry Proceedings, punishment of dismissal from service calls no interference. Considering serious nature of misconduct proved against workman, punishment of dismissal from service is proper. No interference is called for. Accordingly I record my finding in Point No.2.

15. In the result, award is passed as under:-

(1) The action of the management of Corporation Bank in relation to their Branch at Raipur in terminating the services of Shri Ajit Singh Jadeja, clerk w.e.f. 5-7-95 is proper and legal.

(2) Workman is not entitled to relief claimed by him.

16. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 12 अगस्त, 2014

**का.आ. 2251.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 232/98) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/08/2014 को प्राप्त हुआ था।

[सं. एल-12012/86/98-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 12th August, 2014

**S.O. 2251.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 232/98) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India, and their workmen, received by the Central Government on 11/08/2014.

[No. L-12012/86/98-IR (B-II)]

RAVI KUMAR, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/232/98

PRESIDING OFFICER : SHRI R.B. PATLE

Shri R.C. Katkani,  
S/o Shri Lakhmi Chand Katkani,  
C/o 240, Sethi Nagar Colony,  
Freeganj,  
Ujjain

...Workman

#### Versus

Chief General Manager,  
State Bank of India,  
L.H.O, Hoshangabad Road,  
Bhopal (MP)

...Management

#### AWARD

Passed on this 11th day of July, 2014

1. As per letter dated 15-10-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-12012/86/98/IR(B-II). The dispute under reference relates to:

"Whether the action of the management of State Bank of India in terminating the services of Shri R.C. Katkani, Record Keeper w.e.f. 21-11-95 is justified? If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. Workman filed statement of claim at Page 2/1 to 2/5. Case of Ist party workman is that he was initially appointed as Messenger in 1972 by IIInd party Bank. He was served with chargesheet on 14-3-95. Disciplinary proceedings were initiated against him. Charges alleged against him were he drunk wine in the Bank premises and misbehaved with colleague employees, officers and customers of the Bank. After chargesheet was issued, Disciplinary Authority and officers of the Bank tried to admit the charge with the assurance of either releasing him from the charge or award minor punishment. On such promises, he did not submit reply to the chargesheet. At the time of Departmental Enquiry, he was given understanding that enquiry is formulated. That he would be released from charges of minor punishment may be awarded against him. On such contentions he admitted charge. He did not produce anything in support of his defence. He was terminated as per order dated 21-11-95. He challenged said order preferring appeal. Appeal was dismissed on 14-2-96 without application of mind. Workman submits that he was denied opportunity for his defence. Enquiry was not properly conducted. Principles of natural justice were not followed. His admission was not unconditional on the point. Enquiry was closed without recording evidence of witnesses. Workman did not get opportunity for his defence. Punishment of dismissed was imposed without application of mind. Disciplinary Authority ignored conspiracy for admission of charge by him. The punishment is illegal.

3. IIInd party filed Written Statement at Page 8/1 to 8/12. IIInd party submits that services of workman are covered by Sastri and Desai Awards. He was served with chargesheet on 14-3-95, the details of charges against workman are narrated. That workman in drunken condition abused and assaulted Branch Manager, Staff and customers. He denied his behaviour despite of interrogation by other staff members. That from behavior of workman, image of Bank was spoiled. IIInd party submits that after chargesheet was issued to him, workman attended Enquiry proceedings. Charges were read over to him. Repeatedly workman admitted charges. Therefore Enquiry Officer did not record statements of management's witnesses. Enquiry officer submitted his report that charges alleged against workman are proved. Showcause notice was issued to workman by Disciplinary Authority. Considering entire material, punishment of dismissal was imposed. Appeal preferred by workman was dismissed for the reasons that enquiry conducted against workman is proper and legal. Workman was given opportunity for his

defence. All contentions of workman that admission of charges were obtained from him giving promises of lesser punishment are denied. IIInd party prayed for rejection of claim.

4. Ist party workman filed rejoinder at Page 11/1 to 11/3 reiterating its contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |   |                                       |
|---|---------------------------------------|
| (i) Whether the action of the management of State Bank of India in terminating the services of Shri R.C. Katkani, Record Keeper w.e.f. 21-11-95 is justified? | In Affirmative                        |
| (ii) If not, what relief the workman is entitled to?"   | Relief prayed by workman is rejected. |

#### REASONS

6. Enquiry conducted against workman is found legal by my predecessor as per order dated 2-8-2012. Said order has received finality. Therefore the contentions of workman about legality of enquiry proceedings needs no detailed discussion. After enquiry found legal, parties were given opportunity to lead evidence on other issues. However no evidence is adduced on other issues. The record of Enquiry proceedings is produced. Exhibit M-1 is chargesheet issued to workman clearly shows different charges against him. Exhibit M-2 is letter given by Ist party workman to the Disciplinary Authority regretting his conduct and being ashamed of it, he prayed to be excused. He assured not to repeat such incident in future. Said letter is given on 14-4-95. Document Exhibit M-2(a) is also letter given by workman dated 7-8-95 admitting the misconduct against him. He has written that he committed mistake. He was ashamed of his conduct. He would not commit such mistake in future. He begs to be excused. Exhibit M-30 also letter given by workman admitting charges against him on 14-10-95. The document Exhibit M-4(a) charges were explained to the delinquent employee. He admitted charges explaining that he was upset and committed misconduct. He consumed alcohol and he lost his balance. He begged to be excused. Cheque was issued inadvertently, adequate amount was not in his Account. Document M-5 is notice issued to workman by Disciplinary Authority. Document M-6 is letter given by workman dated 15-4-95 admitting misconduct on his part. Document M-7 is memo issued by Disciplinary Authority explaining the charges. Exhibit M-9 is showcause notice issued to workman. In all documents discussed above, workman has clearly admitted misconduct alleged against him. The admission of misconduct by workman is more than six months. It is difficult to disbelieve that during all those period, workman was not knowing the consequences

of admitting charges against him. Showcause notice was also issued. Workman had admitted misconduct on his part in response to said showcause notice. When consistently workman has admitted misconduct alleged against him. There was no question of holding further enquiry and recording further witnesses. Enquiry is found proper and legal by my predecessor. Consequently the detailed discussion on this point is not required.

7. Charges alleged against workman are committing misbehavior under drunken condition, assaulting Branch Manager etc. committing such acts during working hours certainly is misconduct, damaging image of the Bank.

8. Learned counsel for workman Shri S.K.Nandi emphasized that alleged misconduct was under drunken condition. The rules of the Bank provided for pensionary benefits before this Tribunal can exercise powers under Section 11-A and punishment be modified to removal with pensionary benefits.

9. Reliance is placed by counsel for IInd party Shri Amit Nagpal in ratio held in

Case of U.P. State road Transport Corporation versus Subhash Chandra Sharma and others reported in 2000(3) Supreme Court Cases 324. Their Lordship dealing with powers of Labour Court to give relief, held doesnot extend to granting relief where the punishment of removal was not shockingly disproportionate. The charge that the delinquent driver of U.P.State Road Transport Corporation went in a drunken state to the Assistant Cashier in the cash room, demanded money from him on his refusal abused and threatened to assault him was a serious charge of misconduct. Hence punishment of removal after said charge was found proved in Departmental Enquiry was not shockingly disproportionate. Their Lordship held Labour Courts interference therewith substituting the same by stoppage of one increment was arbitrary.

Counsel for workman Shri Praveen Yadav placed reliance on ratio held in case of Rajasthan Tourism Development Corporation Limited and another versus Jai Raj Singh Chauhan reported in 2012(2) SCC(L&S) 67. Their Lordship dealing with misconduct of unauthorised/ gainful absence held could not be taken into consideration.

The ratio cannot be applied in present as misconduct alleged against workman is not of unauthorised absence. Considering proved misconduct of workman, the dismissal of workman cannot be said illegal. For above reasons, I record my finding in Point No.1 in Affirmative.

10. In the result, award is passed as under:-

(1) The action of the management of State Bank of India in terminating the services of Shri R.C. Katkani, Record Keeper w.e.f. 21-11-95 is proper.  
 (2) Relief prayed by workman is rejected.

11. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R. B. PATLE, Presiding Officer

नई स्लिली, 12 अगस्त, 2014

**का.आ. 2252.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 186/01) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/08/2014 को प्राप्त हुआ था।

[सं. एल-12011/156/2001-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 12th August, 2014

**S.O. 2252.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 186/01) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Syndicate Bank, and their workmen, received by the Central Government on 11/08/2014.

[No. L-12011/156/2001-IR (B-II)]

RAVI KUMAR, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/186/2001

PRESIDING OFFICER : SHRI R.B. PATLE

General Secretary,  
Daily Wages Bank Employees Association,  
Hardev Niwas, 9,  
Sanwer Road, Ujjain

...Workman/Union

#### Versus

Regional Manager,  
Syndicate Bank, RO Shikarvarta Road,  
4, Indra Press Complex, Zone-I,  
M.P. Nagar, Bhopal (MP) ...Management

#### AWARD

Passed on this 23rd day of May, 2014

1. As per letter dated 29-11-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-12011/156/2001-IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Regional Manager, Syndicate Bank, Regional Office, Bhopal in not regularizing the services of Shri Ganesh Kumar Barwa is justified? If not, what relief the workman is entitled for?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim through Union Representative Shri Ram Nagwanshi at Page 3/3 to 3/8. Case of Ist party is that he was appointed on temporary basis as sweeper by the Branch Manager of IIInd party from 24-4-88. That he worked with devotion without any grievance from any corner. He was doing the work of cleaning, dusting, sweeping in the Bank. He was also doing work of providing drinking water to staff and taking token, books, log books etc., from different tables. He worked under Branch Manager Mr. Nair, Srikant and Mishra. He was paid bonus. The information relating to workman was submitted time to time to the Regional Office. Workman submits that since 24-4-88, he was continuously working. In 1997, he had completed 240 days. He also submits that he also worked for 2150 days during past 12 years. He submitted application for regularization of the service, that he had crossed age for getting employment overlooking his service for 12 years. His services were discontinued from 24-7-00. He was not provided work. The work was extracted from him using bogus names like Anil, Balkrishna, Bala, Keshuji, Ramprasad, Balkishan, Gendalal etc. The documents about payments are produced in conciliation proceeding before ALC initiated by workman. IIInd party submitted that panel of temporary employees was prepared for exigency when permanent employee was preceding on leave. That name of Munnalal was at Sl.No.1 & Ganesh at sl.No.2. that Munalal would be observed first. That Mr. Rajesh had not completed 240 days work. That Munnalal was confirmed on 1-7-88. That permanent peon Chouhan had taken voluntary retirement. His post was lying vacant. Workman has given details of the hearing before ALC, Bhopal in conciliation proceedings. The report was called during conciliation proceeding. Overlooking his service for period of 12 years, he was discontinued illegally which amounts to unfair labour practice. That his services are discontinued without compliance of section 25-F. he was not paid retrenchment compensation. Workman further claims that as he completed 240 days continuous service in 97-98 is covered as employee under Section 25-B. The services are terminated in violation of Section 25-F, G H of I.D. Act. On such ground, workman prays for confirmation of his service.

3. IIInd party filed Written Statement at Page 6/1 to 6/11. That the dispute is raised by Shri G.K.Barau the General Secretary of Employees Association is not tenable. He claimed that he was working as part time sweeper claiming status of permanent employee. Dainik Vetal Bhogi Bank Karmchari Sangh has no concern with the Bank. Said Union is not functioning in Syndicate Bank. The claimant cannot be member of said Union as such Union has no locus-standi to raise dispute. It is further submitted that service conditions of the awarded staff are covered by various

awards and bipartite settlements that due to unexpected absenteeism of regular sub staff the work of branch is abstracted. The Bank find it necessary to engage persons temporarily on account of absence of regular staff. That Shri G.K.Baura was engaged as part time sweeper on daily wage basis when work was available. He was paid minimum wages. Workman was not employed on Bank. Manager has to make necessary arrangements engaging temporary employees. Branch Manager was reimbursed the expenses. That workman G.K.Barau had not completed 240 days continuous service. regularization needs availability of posts, funds for retaining temporary employees. Regularization cannot be made as thumb rule only after completion of certain years of service. Workman cannot claim employment as a right as he performed duties of temporary nature. The appointments in Bank are covered by statutory rules and regulations. Persons seeking employment in Bank has to go through the entire procedure prescribed for appointment. The Regional Manager is employed to appointment of staff as per seniority. Workman was never appointed by competent authority. He was temporarily engaged due to exigencies that as per directions of Central Govt, employment of sub staff can be done through Employment Exchange only. It is mandatory. The vacancies should be filled by candidates sponsored by Employment Exchange. IIInd party has also pleaded about guarantee of employment under Article 16 and reservation in appointment of SC, ST, OBC and other categories. With regard to absorption of temporary attenders, the Bank has entered into a settlement with recognized Union under Section 12(3) of I.D. Act, 1947 on 9-4-96. The said settlement is based on the guidelines/procedures laid down by the Govt. the absorption of candidates will be from the panel of temporary attenders was prepared. Two candidates were in the panel – Shri G.K. Barua and Munnalal. When permanent vacancy arise, Shri Munnalal was to be given first preference. As and when permanent vacancies arises, name for the panel of temporary candidates will be considered subject to seniority. That not assigning temporary duties to Shri G.K. Barua is only non-renewal of duties. It does not amount to retrenchment. Above contentions are reiterated by IIInd party in its Written Statement. That workman had not completed 240 days continuous service. he was engaged as per exigencies. The wages were paid to him. Workman is not entitled to regularization of service. on such ground, IIInd party prays for his rejection of claim.

4. Proceeding under Section 33-A is filed by the workman. It is separately registered as A/5/06. Vide order dated 20-5-14, said proceeding is merged with present reference. The contentions of parties in said proceeding are as under:-

5. Present proceeding is filed under Section 33-A of I.D. Act by applicant Ist party workman. It is submitted

that the applicant was working as attendant with Non-applicant from 24-4-88. He had completed 240 days continuous service. he was continuously working for 12 years. That the conciliation proceeding were initiated before ALC, Bhopal. After conciliation proceedings were initiated, Non-applicant discontinued his services from 16-12-2000 without issuing notice/ retrenchment compensation. As such it is alleged that the non-applicant has violated Section 33 of I.D.Act. Applicant prays for appropriate relief.

6. Non-applicant filed reply at Page 5/1 to 5/4. Non-applicant submits that application is not tenable. Application is misconceived. That Union has raised industrial dispute before ALC and Conciliation ended. The report was sent to the Ministry and dispute is referred to the Tribunal for adjudication bearing No. R/186/01. The reference is fixed for evidence of applicant on 13-2-07. In Written Statement filed in above reference, Non-applicant has pleaded that applicant was engaged for work of casual nature as per exigencies and availability of work. The daily wager itself indicates that the engagement is as per availability of work. The engagement ends at end of the day. Workman was not continuously working from 24-4-88. The reference case No. R/186/01 is pending. All above contentions are reiterated by Non-applicant and prays for rejection of claim.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

#### **In Case No. R/186/01**

- |   |  |
|---|--|
| (i) Whether the action of the management of Regional Manager, Syndicate Bank, Regional Office, Bhopal in not regularizing the services of Shri Ganesh Kumar Barwa is justified? | Affirmative                                  |
| (ii) If so, to what relief the workman is entitled to?"   | Workman is not entitled to relief as prayed. |

#### **In Case No. A/1/06**

- |  |  |
|--|--|
| (i) Whether the Applicant proves that Non-applicant violated Section 33 of I.D.Act?        | In Negative  |
| (ii) Whether the applicant is entitled to relief contemplated under Section 33 of I.D.Act? | In Negative  |
| (iii) If so, to what relief the workman is entitled to?"                                   | Workman is not entitled to relief under Section 33 A |

#### **REASONS**

8. Workman filed affidavit of his evidence in reference proceeding. He has stated that he was engaged by Branch Manager of Rajwada Branch from 24-4-88 as Badli/ Attendant sweeper. He was paid salary as per muster roll in Saving Account No.8598/16. He has given details of his working-taking vouchers, token book, distribution of letters etc. he was closing Bank around 6 PM. He was paid full wages of part time employee Rs.110/- per day for 248 days in 1997. That the wages were paid to him changing his names like Anil, Balkrishna, Bala, Keshuji, Ramprasad, Balkishan, Gendalal etc. That he had completed more than 240 days during each of the year. He had crossed age of getting employment. That he worked from 1988 to 16-2-00. Thus it is clear that services of Ist party workman were discontinued from 16-12-00. In his cross-examination, workman says he doesnot know about the contents of his affidavit of evidence. Therefore the evidence of Ist party workman on affidavit cannot be accepted when he himself claims ignorance about contents of his affidavit.

9. Management filed affidavit of Shri Sunil Goel . witness stated that workman was engaged on daily wages as per exigencies by the Branch manager. Workman had not completed 240 days continuous service. Workman was engaged purely on temporary basis on daily wages during absence of sub-staff. The vacancies of subordinate staff should be filled in from candidates sponsored through Employment Exchange. However the vacancies may be filled in by other sources if Employment Exchange authorizes or gives non-availability certificate. That Ganesh K.Barau was never appointed by Competent Authority against sanctioned post. His name was not sponsored through Employment Exchange. It is reiterated that workman had not completed 240 days service. In his cross-examination, management witness says he had not seen documents produced by workman on December 2001. Affidavit of his evidence is filed as per record. He claims ignorance for how many days workman worked on daily wages. He was unable to tell exact period. Workman not signed on muster roll. The witness claims ignorance about payment of salary through Saving Account. He says that he had not seen workman had submitted statement about working for 240 days. That he had not verified documents from branch. Management's witness claims ignorance whether workman was paid wages in different names. If wages are paid to workman in different names, certainly it is fraud on Bank and such practices cannot be appreciated. As stated above, workman had claimed ignorance about contents of affidavit of evidence. As such evidence of workman doesnot support his claim. management's witness has not admitted suggestion that workman completed 240 days continuous service.

10. Document Exhibit W-1 is letter given by Asstt. General Manager to Branch Manager Indore. The claim of

G.K.Barau for regularization could not be accepted. Though Ist party has produced large bunch of zerox copy of documents, no care is taken to prove the same. There is no cogent evidence to prove that the workman was continuously working from 1988 to 16-2-2000. At the time of hearing, Union Representative Mr. Nagwanshi submitted that IInd party has admitted working of Ist party in Paras 11, 22 & 23 of the Written Statement. The careful perusal of the pleadings in those para means that workman was engaged temporarily engaged as per exigencies. Completion of 240 days continuous service is not admitted. In para 47 of Written statement, management had denied workman had completed 240 days continuous service. As per terms of reference, workman is claiming regularization of his services. However any rule Bipartite settlement are not pointed out under which workman claims regularization. As per evidence of management's witness name of Ist party workman was not sponsored through Employment Exchange. Procedure for appointment of Sub-Staff was not followed in his case. Therefore claim of Ist party workman for regularization cannot be accepted.

11. Learned counsel for IInd party Mr. Sharad Punj relies on ratio held in

Case of M.P.State Agro Industries Development Corporation Ltd. and another versus S.C.Pandey reported in 2006(2)Supreme Court Cases 716. Their Lordship of the Apex Court dealing with question of right to regularisation of casual labour, temporary employees on completion of 240 days continuous service held only because a temporary employee completes said period of service, that by itself would not confer any legal right upon him to be regularized in service.

12. In case of APSRTC & others versus K.V. Ramana and others reported in AIR 2007 Supreme Court 1166. Their Lordship dealing with regularization of service of Respondent appointed as contract sweeper and attender in State Transport Corporation held their services cannot be regularized as their appointments were de hors rules and constitutional scheme of public employment. Considering evidence discussed above, I record my finding on Point No.1 in Affirmative, in Point No.2- workman is not entitled to any relief.

13. Turning to applicant's application A/5/06, proceeding under Section 33-A, the applicant has not filed separate evidence. As per pleadings and evidence in R/186/01, services of workman were discontinued from 16-12-2000. Reference was pending before this Tribunal. There is absolutely of evidence how the service conditions of workman were changed. As such violation of Section 33 of I.D.Act is not proved by evidence by the applicant. Therefore the action prayed by applicant under Section 33-A of I.D.Act cannot be taken. For above reasons, I record my finding on Point No.1, 2 in Negative.

14. In the result, award is passed as under:-
- (1) Action of the management in Case No. R/186/01 is proper.
- (2) Workman is not entitled to any relief.
- (3) Application No. A/5/06 is rejected Parties to bear their own cost.
15. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 12 अगस्त, 2014

**का.आ. 2253.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नैशनल बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ सं. 51/93) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/08/2014 को प्राप्त हुआ था।

[सं. एल-12012/375/92-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 12th August, 2014

**S.O. 2253.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 51/93) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank, and their workmen, received by the Central Government on 11/08/2014.

[No. L-12012/375/92-IR (B-II)]

RAVI KUMAR, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/51/93

PRESIDING OFFICER : SHRI R.B. PATLE

Shri Pushp Kumar Pathak,  
S/o Shri K.P.Pathak,  
Chhindwara Kareli,  
Distt. Seoni.

.....Workman

#### Versus

Regional Manager,  
Punjab National Bank,  
Shastri Bridge,  
Jabalpur.

.....Management

**AWARD**

Passed on this 20th day of May, 2014

1. As per letter dated 3-3-93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/375/92-IRB-II. The dispute under reference relates to:

“Whether the claim of Shri Pushp Kumar Pathak that he had worked for more than 240 days in 12 consecutive months with the Punjab National Bank is correct and whether the action of the management of Punjab National Bank in terminating his services is justified? What relief, if any, is the workman Shri Pushp Kumar Pathak entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 4/1 to 4/3. Case of Ist party is that he was employed as full time peon at Kekda branch of the Punjab National Bank, Distt Seoni of IIInd party on 29-9-89, he was continuously working till 4-11-91. His services were orally terminated by Branch Manager. That he was engaged against permanent vacancy of the peon. He was continuously working for above such period. That as per Para 508 of Sastry Award, he was deemed to be a probationer and is deemed to be confirmed workman as per Para 495 of the Sastry Award. He was not paid wages for full time employee instead he was paid Rs.7/- per day in violation of Bipartite Settlement, Clause 4.5(b). That Ist party workman was continuously working in the bank for a period of 519 days without break. However his signatures were obtained on vouchers in names of other persons. His services are terminated without notice, he was not paid retrenchment compensation, termination of his services amount to illegal retrenchment. On such ground, workman is claiming reinstatement.

3. IIInd party filed Written Statement/rejoinder at Page 7/1 to 7/3. Case of IIInd party is that Ist party workman was not appointed against vacant post of peon. He was intermittently engaged as per exigencies. He was paid wages Rs.7/- per day. It was open for workman to return to duty on next date. Workman is not entitled to any relief. As he was engaged as casual employee workman had wrongly stated that he has passed HSSC Examination. Workman concealed his educational qualifications. He is not entitled to reinstatement.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- (i) Whether the claim of Shri Pushp Kumar Pathak that he had worked for more than 240 days in 12 consecutive months with the Punjab National Bank is correct? In Negative

- (ii) Whether the action of the management of Punjab National Bank in terminating his services is justified? In Affirmative
- (iii) If not, what relief the workman is entitled to?” Workman is not entitled to any relief.

**REASONS**

5. Though workman is challenging termination of his service for violation of Section 25-F of I.D.Act, that he was terminated without notice, retrenchment compensation was not paid to him, workman has not participated in the reference proceeding. He has failed to adduce evidence in support of his claim. Evidence of workman is closed on 7-11-2013. Evidence of management is closed on 16-5-2014. As both parties failed to participate and adduce evidence, the action of the management cannot be said illegal. Workman has failed to prove that he was continuously working for 240 days in 12 calendar months preceding his termination. Therefore I record my finding in Point No.1 in Negative & Point No.2 in Affirmative.

6. In the result, award is passed as under:-

- (1) The claim of Shri Pushp Kumar Pathak that he had worked for more than 240 days in 12 consecutive months with the Punjab National Bank is not correct and the action of the management of Punjab National Bank in terminating his services is proper.
- (2) Workman is not entitled to any relief as claimed by him.

7. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 12 अगस्त, 2014

**का.आ. 2254.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओरेनटल बैंक ऑफ कोर्मस के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ सं. 19/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/08/2014 को प्राप्त हुआ था।

[सं. एल-12012/6/98-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 12th August, 2014

**S.O. 2254.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/99) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Oriental Bankof Commerce and their workmen, received by the Central Government on 11/08/2014.

[No. L-12012/6/98-IR (B-II)]

RAVI KUMAR, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/19/99**

**PRESIDING OFFICER : SHRI R. B. PATLE**

General Secretary,  
Daily Wages Bank Employees Association,  
9, Sanwer Road, Ujjain .....Workman/Union

**Versus**

The Chairman-cum-Managing Director,  
Oriental Bank of Commerce,  
Head office,  
Harsh Bhawan, Cannaught Place,  
New Delhi. ....Management

**AWARD**

Passed on this 18th day of July, 2014

1. As per letter dated 4-12-98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D.Act, 1947 as per Notification No.L-12012/6/98/IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Oriental Bank of Commerce in not regularizing the services of Shri Sitaram Shyamsundar Sharma is legal and justified? If not, to what relief the said workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at page 4/1 to 4/3. Case of Ist party workman is that he was engaged on daily wages by Branch manager Poddar in Mhow branch. He was doing work of cleaning, sweeping, dusting in the branch. He was continuously working till 31-12-90. He was paid Rs.200/- per month. His signatures were obtained on stamp paper. He was working more than 8 hours. When workman asked for payment of bonus, his services were terminated without notice. He was not paid any compensation. It is further submitted that he completed 240 days continuous service. He is covered as employee under section 25(B) of I.D.Act. principles of last come first go was not followed by the management. The services were terminated during pendency of conciliation proceedings. On such ground, workman is praying for his reinstatement with consequential benefits.

3. IIInd party filed written statement at Page 6/1 to 6/3. IIInd party raised preliminary objection that workman raised dispute after 7 years is not tenable. The dispute under Section 2 is not existing. The recruitment cell are made as per rules framed by Govt. The name of workman was not sponsored through Employment Exchange. The Bank

Manager had no power to appoint. Workman was not appointed on regular post. It is denied that workman was working from 10.30 AM to 6 PM. Workman was engaged as per exigencies of work for work of gardner and other cleaning work. workman has not completed 240 days service during any of the year. There was no question of issuing notice. As workman was engaged for petty works. Violation of Section 25-G, H, N is denied. IIInd party prayed for rejection of claim. Ist party submitted rejoinder at Page 9/1 to 9/3 reiterating contentions in statement of claim. It is denied that workman was engaged for casual petty works. It is denied that he has not completed 240 days continuous service.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |  |                     |
|--|---------------------|
| <p>(i) Whether the action of the management of Oriental Bank of Commerce in not regularizing the services of Shri Sitaram Shyamsundar Sharma is legal and justified?</p> | In Affirmative      |
| <p>(ii) If not, what relief the workman is entitled to?”</p>   | As per final order. |

**REASONS**

5. Terms of reference pertains to management of Oriental bank of Commerce not regularising services of workman whereas the pleadings in statement of claim filed by workman pertains to illegal termination of service of the workman in violation of Section 25-F, G of I.D.Act. Thus the pleadings in statement of claim are beyond terms of reference.

6. Workman filed affidavit of his evidence stating that he was continuously working with IIInd party bank from 1985 to 1990. When he claimed bonus, his services were terminated without notice. He was not paid compensation. In his cross-examination, workman says the Bank is located at intervening 2-3 squares from his home. Written order was not given to him about his work. Appointment letter was not given to him. Wages were paid under voucher. The voucher was prepared in his name. He was signing attendance register. He was doing the work of distribution of dak, he worked from 1985 to 1990. He has not abandoned his service. During 1985 to 1990, he was not discontinued. After discontinuing him the Bank engaged one Akash in his place. However any documentary evidence is not produced on record.

7. Management's witness Shri Poddar filed affidavit of evidence but not faced cross-examination. Management's witness Shri Vijay Kumar Biyani. In his affidavit of evidence has denied that workman was paid Rs. 200/- per month. It is denied that workman was engaged as labour. Management's witness says workman was

engaged as casual labour for watering the garden. In his cross-examination, management's witness says that during his tenure, workman was not in employment. Workman was in employment prior to his posting in the branch. Workman was paid wages under voucher by Branch Manager. Management's witness claims ignorance about his appeal in Labour Court. He has not enquired from his predecessors. Attendance register is not maintained. Workman was not paid compensation, bonus.

8. Management's witness Dinesh Kumar Bhatta in his affidavit of evidence says workman was never appointed in Bank. He was engaged as casual maali. Petty work was done by workman. In his cross-examination management's witness says name of workman was not sponsored through Employment Exchange. Workman was not called for interview. Any interview call was not given to him. Workman was working from 1985 to 1990. The pleadings and evidence of workman pertains to illegal termination of his service whereas terms of reference pertains to non-regularisation of workman in service by management. Though the termination of workman appears in contravention of Section 25-F of I.D.Act, said point is not referred for adjudication. Evidence on record shows workman was not appointed following recruitment rules. His name was not sponsored through Employment Exchange. Therefore the claim of workman as per terms of reference cannot be allowed.

9. Learned counsel for IIInd party Shri R.N. Roy argues that appointment of workman was not legal relying ratio held in case of

Secretary, State of Karnataka and others versus Umadevi and others reported in 2006(4) SCC-I. Learned counsel prays that award be passed in favour of the management. In para-45, their lordship observed while directing that appointments, temporary or casual, be regularized or made permanent, the courts are swayed by the fact that the person concerned has worked for sometime and in some cases for a considerable length of time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the employment with open eyes. It may be true that he is not in a position to bargain – not at arms length. Since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently.

In Para-43 of the judgment, their Lordship observed similarly a temporary employee could not claim to be made permanent on expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time

beyond the terms of appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular appointment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right."

For reasons discussed above, I record my finding in Point No.1 in Affirmative.

10. In the result, award is passed as under:-

- (1) The action of the management of Oriental Bank of Commerce in not regularizing the services of Shri Sitaram Shyamsundar Sharma is legal and proper.
- (2) Workman is not entitled to relief claimed by him.

R. B. PATLE, Presiding Officer

नई दिल्ली, 12 अगस्त, 2014

**का.आ. 2255.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ सं. 11/2003) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/08/2014 को प्राप्त हुआ था।

[सं. एल-12011/8/2003-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 12th August, 2014

**S.O. 2255.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2003) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of Bank of India and their workmen, received by the Central Government on 11/08/2014.

[No. L-12011/8/2003-IR (B-II)]

RAVI KUMAR, Section Officer

#### ANNEXURE

#### BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

#### Industrial Dispute 11 of 2003

#### Between –

Zonal Manager,  
Bank of India, Virendra Smriti Complex,  
Civil Lines Kanpur,

**And**

The Assistant General Secretary,  
U.P. Bank Employees Union,  
426, W-2 Basant Vihar,  
Kanpur-208021.

**AWARD**

1. Central Government MOL, New Delhi vide notification No.L-12011/08/2003-IR(B-II) dated 16.4.2003 has referred the following dispute for adjudication to this tribunal-

2. Whether the action of the management of Bank of India, Kanpur, in dismissing Sri Daulat Singh, daily rated peon/temporary workman from service with effect from 31.08.2001 is legal and justified? If not what relief the concerned workman is entitled to?

3. Brief facts are-

4. It is alleged by the claimant that he was engaged as a temporary cepoy with effect from 14.09.92 by the opposite party and was required to perform all the duties of a regular cepoy. He was initially paid Rs. 20 per day was enhanced to Rs. 40 per day. It is stated that at that branch of the bank there was only one daftary and there was no cepoy at that branch as such there was a vacant post of cepoy at Ganjmooradabad Branch of the bank and that he continuously worked at the said branch from 14.09.92 to 05.01.98, when his services were abruptly terminated by the bank. Thereafter he continued to approach the manager of the branch after his termination, consequently he was offered employment as temporary safai karamchari at Roorisadikpur Branch of the bank with effect from 28.05.98. When the union raised a dispute before the ALC soon thereafter the bank terminated the services of the workman on 31.08.01.

5. It is also alleged by the workman that he had worked for more than 240 days of continuous work preceding 12 calendar months from the date of his termination and that the bank at the time of terminating his service has neither offered him any retrenchment compensation, notice pay or pay in lieu of notice, therefore, the action of the bank in retrenching the services of the workman is bad in law and he is entitled for his reinstatement with full back wages, continuity of service with all consequential benefits.

6. The opposite party bank has filed their reply refuting entire claim of the workman on the ground that there never existed any relationship of master and servant between the bank and the claimant and if at he was engaged by the manager of the bank he might have been engaged as a daily rated workman according to need of the branch and that he was never paid his wages as that of a regular employee. Lastly it is alleged by the bank that as there never existed any relationship of master and servant between the workman and the bank, therefore, compliance of the provisions of the Industrial Disputes in the case of

the claimant was not warranted. As such it has been claimed by the opposite party that the claim of the workman is absolutely false and baseless and he is not entitled for any relief and his claim should be rejected out rightly.

7. Heard the arguments at length and perused the file.

8. Complainant has adduced himself as a witness W.W.1. He has filed three papers i.e. paper no.12/2-4. I have examined the genuineness of these papers along with the statement of W.W.1 coupled with evidence of opposite party M.W.1 and 2.

9. These papers are photocopies, not admissible in evidence.

10. Workman has totally failed to prove paper no.12/2 also which alleged to have been written by one person named as P.N. Kureel who was working at that time in the bank, but the workman did not produce Shri P.N. Kureel though he had remained present on one or two occasion in the court. It was the duty of the workman to produce said Kureel if he was a relevant witness in the case. Why was he not produced the reason is known to the workman.

11. W.W.1 in his cross-examination admitted that there is no other document is available in the records of the bank like paper no.12/2. Paper no.12/3-4 does not bear any stamp of the bank and there is no signature of the workman. The claimant admitted in his cross that he himself has prepared these photocopies, therefore, there is no authenticity of these documents, and therefore, these documents cannot be relied upon.

12. Workman admitted in his cross-examination that he was never issued any appointment nor he was ever subjected for regular selection by the bank. He also admitted that he has not filed any documents relating to the payments of his wages prepared by the bank in the name of his wages before this tribunal.

13. I have examined the evidence adduced by the management. MW.1 has specifically stated on oath that the workman has never worked against any regular post continuously for 240 days or more. Some work might have been taken casually by the branch manager according to the necessity. He was never transferred to Roorisadikpur branch of the bank. Paper no.12/2-4 are the forged paper. They have also contended that though he was engaged for casual work for some time even then when the vacancies were advertised the workman was permitted in the test but since he was not found suitable he was not appointed. Witness going on to state that as the workman could not get his selection through regular selection therefore, he has adopted the present measure through the adjudication process for seeking his employment through back door entry in public employment.

14. Therefore, after considering the facts, circumstances and legal position of the case, the tribunal has come at a conclusion that the workman has palpably failed to

establish the fact that he had completed for more than 240 days of continuous work with the opposite party or there had remained any relationship of master and servant between the bank and workman. As such the claimant fails to prove his case and as such the reference is bound to be answered against the workman and in favour of the bank.

15. Accordingly it is held that the workman is not entitled for any relief pursuant to the present reference order.

RAM PARKASH, Presiding Officer

नई दिल्ली, 12 अगस्त, 2014

**का.आ. 2256.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार अकसिस बैंक लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, कोलकाता के पंचाट (संदर्भ सं. 24/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 28/06/2014 को प्राप्त हुआ था।

[सं. एल-12011/65/2011-आईआर (बी-1)]

सुमित्र सकलानी, अनुभाग अधिकारी

New Delhi, the 12th August, 2014

**S.O. 2256.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 24/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute between the management of M/s. Axis Bank Ltd. and their workmen, received by the Central Government on 28/06/2014.

[No. L-12011/65/2011-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

#### Reference No. 24 of 2013

**Parties:** Employers in relation to the management of Axis Bank Limited

AND

Their workmen.

**Present :** Justice DIPAK SAHA RAY, Presiding Officer

#### Appearance :

On behalf of the Management : Mr. S. Roy, Ld. Counsel for Axis Bank Ltd.

Mr. S. K. Karmakar, Ld. Counsel for M/s. Security & Investigation Bureau.

On behalf of the Workmen : Mr. S.H. Quader, Ld. Counsel.

State : West Bengal Industry: Banking.

Dated: 4th June, 2014

#### AWARD

By Order No.L-12011/65/2011-IR(B-I) dated 10.04.2013 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the management of M/s. Security & Investigation Bureau, a contractor of Axis Bank Ltd. in denying the charter of demands submitted by the Union (as per Annexure-I) is legal/or justified? If not, what relief the workmen are entitled to?”

2. When the case is taken up for hearing today, Ld. Counsel appearing on behalf of the management files copy of the order dated 10.04.2014 passed by the Hon’ble High Court, Calcutta in W.P. No. 28406(W) of 2013. It appears from the said order that the instant order of reference has been set aside by the Hon’ble High Court, Calcutta.

3. In view of the above order of the Hon’ble High Court, present reference is dropped by passing an Award.

Justice DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata,

The 4th June, 2014.

नई दिल्ली, 12 अगस्त, 2014

**का.आ. 2257.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दि स्टर्न्ड चार्टिड बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, मुम्बई के पंचाट (संदर्भ सं. 3/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 23/07/2014 को प्राप्त हुआ था।

[सं. एल-12025/01/2014-आईआर (बी-1)]

सुमित्र सकलानी, अनुभाग अधिकारी

New Delhi, the 12th August, 2014

**S.O. 2257.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/2009) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the management of the Standard Chartered Bank and their workmen, received by the Central Government on 23/07/2014.

[No. L-12025/01/2014-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI****PRESENT : K. B.KATAKE, Presiding Officer****COMPLAINT NO. CGIT-2/3 of 2009**(Arising out of Ref.CGIT-2/29 of 2006 &  
Ref. CGIT-2/27 of 2007)

Mrs. Anupama Naik,  
B-202, Pascoal Square,  
Sunder Nagar, Kalina,  
Santacruz (E)  
Mumbai-400 098

.....Complainant

**V/s.**

The Standard Chartered Bank,  
23/25, M.G Road, Fort,  
Mumbai 400 001

.....Opponent.

**APPEARANCES :**

For the Complainant : Mr. P. Gopalkrishnan, Advocate.

For the Opponent : Mr. Ashok D. Shetty, Advocate.

Mumbai, dated the 16th June, 2014

**AWARD**

This Complaint is filed under Section 33-A of Industrial Disputes Act, 1947 hereinafter for brevity referred as I.D. Act. According to the complainant she was employee of the opposite party and was recruited on 15/02/1988 as a Clerk. She served in the opposite party Bank till the date of her dismissal by the order dated 17/05/2006. According to the complainant the opposite party issued her showcause notice as to why she should not be dismissed from employment for misconduct. The Complainant by her reply informed the Opposite party that they cannot dismiss her without any inquiry. Thereafter the opposite party issued a charge sheet dated 28/08/2006 to her alleging to have committed misconduct. The Inquiry Officer was appointed. He commenced the inquiry on 06/10/2006 and concluded the same on 21/04/2009. The delay was due to the opposite party and the inquiry officer appointed by it. The Inquiry Officer submitted his report. Copy thereof was served on the complainant and her explanation was called for. The complainant pointed out the biasness of the Inquiry Officer, omission and commission in decision making process and also pointed out perversity in his findings. However the opposite party did not consider the explanation of the complainant and accepted the report of the Inquiry Officer and dismissed the complainant from services with immediate effect.

2. While dismissing the complainant from service, by order dated 14/10/2009 a reference of the union was pending before this Tribunal. The management neither obtained

approval of the Tribunal/Labour Court for its action of dismissal nor followed the provisions of Section 33 of the I. D. Act. The said order of dismissal is illegal and not sustainable under law. Therefore complainant has filed this complaint and prays that the order of dismissal dated 14/10/2009 be declared illegal, void and the same be quashed. Complainant also prays that the opposite party be directed to reinstate the complainant in the employment with immediate effect with full back wages and difference. The complainant also prays for cost.

3. The Opposite party resisted the complaint vide its written statement at Ex-7. According to them the complainant is not 'workman'. Therefore this complaint is not tenable. They further contended that the complainant was involved in a case of theft of credit card and she had withdrawn the amount from the opposite party Bank by using the stolen credit card. Therefore show cause notice was given to her and she was charge sheeted. The departmental inquiry was initiated against her. The Inquiry Officer held her guilty and after giving her hearing, the Disciplinary Authority dismissed the complainant from service. As complainant is not a 'workman' as defined under Section 2 (s) of I.D. Act, it was not necessary to pay her one month's pay and approval of the Tribunal was also not necessary. Therefore they pray that the complaint be rejected.

4. Following are the points for my determination. I record my findings thereon for the reasons to follow:

<b>Sr. Points</b>	<b>Findings</b>
No.	

1. Whether the complainant is 'workman' No.  
as defined under Section 2 (s) of the  
I.D. Act.?
2. If yes, Whether the opposite party No.  
is guilty of contravening provisions  
of Section 33 2 (b) of I.D. Act?
3. If yes, what relief the complainant is As per  
entitled to? final order.

**REASONS**

5. In this respect the Id. adv. for the Opposite party submitted that the same type of complaint was filed by this complainant before the Hon'ble CGIT-1 and the Hon'ble Tribunal was pleased to reject the said complaint with observations that the complainant is not a 'workman'. Therefore opposite party was not under obligation to apply for approval and to follow the procedure laid down under Section 33 2 (b) of I.D. Act. The said award came to be passed after the arguments in this case were heard. Therefore instead of rejecting the complaint on that ground, I would like to decide the same on merit.

**Point nos.1 to 3 :-**

6. In this respect ld. adv. for the complainant submitted that the management treated the complainant as a 'workman'. Inquiry was held against her for breach of provisions of Model Standing Orders and thereby treated the complainant as 'workman'. Therefore ld. adv. submitted that, now the employer is estopped from denying the fact that employee is a 'workman'. In support of his argument ld. adv. resorted to Bombay High Court ruling in Sarang V/s. Forge and Allied Industries Ltd., Thane &ors. 1995 I CLR 837 wherein the Hon'ble Court observed that;

"If an employer continuously and consistently proposes and takes action against its employee on the footing that he is covered by Model Standing Orders, thereby implying that the employee is a 'workman' within the meaning of the Act. Then such employer must be estopped from denying the said fact, when the dispute regarding the dismissal of the employee finally land up before the Industrial Adjudicator."

7. The same principle is reiterated by Hon'ble Bombay High Court in George Thomas Thakkeyil V/s. Science Technical Centre 2007 II CLR 185 (2) Arvind Ramdas Vaike, Nagpur V/s. Ispat Industries Ltd. & Ors. 2008 (III) CLR 1002 (Bom).

8. The same ratio was also followed by Hon'ble Madras High Court in M. Ganesan V/s. Management of Tamil Nadu Electricity Board and Anr. 2009 II CLR 406

9. In this respect the ld. adv. for the Opposite party pointed out that, the opp. party never treated the complainant as a 'workman'. On the other hand from the pleadings in the complaint it is clear that, when the complainant was arrested by Police in the case of theft of credit card, and for withdrawal of amount by using the stolen credit card, show cause notice was issued to the complainant as to why she should not be dismissed from the service for loss of confidence on commission of act of serious misconduct. It is pleaded by the complainant herself in para 5 of the complaint that she replied to the show cause notice that, she being a workman cannot be dismissed from employment for loss of confidence without conducting any inquiry. Thereafter by way of abundant precaution, the opp. party appointed Inquiry Officer and conducted the inquiry though it was not necessary. That does not mean that the opposite party was treating the complainant as workman. On the other hand they were treating the workman as an officer. Therefore after the theft case came into light straight away they had issued the notice as to why she should not be dismissed from services for loss of confidence. The inquiry was conducted as it was insisted by the complainant. It indicates that employer had never treated the complainant as a 'workman'. Therefore the above referred rulings are not attracted to the set of facts of the present case.

10. In this respect the ld. adv. for the opposite party submitted that, the complainant has admitted in her cross at Ex-10 that, she was promoted as Officer in 2000. She further says that at the time of dismissal, her designation was Teller at Juhu Branch. She has also admitted that she has worked as Recovery Officer of credit card dues and her net pay after all deductions was Rs.31,399.66 ps. She has further stated that she is bound by Employees Discipline Policy of Standard Chartered Bank (India). She has further admitted that every year there was performance appraisal and she used to sign form for the officers. She had admitted her signatures on pages 488 to 495 of Ex-9 and pages 488-489, 491 and 495 at Ex-17 (colly). She has also admitted that her grade was 8-B when she was dismissed from service. In this respect the ld. adv. for the opposite party has submitted that complainant herself has admitted that she was promoted as an officer in the year 2000 and worked as Recovery Officer and has also signed the performance appraisal form for officers. In the circumstances heavy burden is on the complainant to show that again she was reverted or she was working as 'workman' at the time of dismissal from the service. According to him burden lies on the complainant to plead and prove that she was a 'workman'. She has also not led any evidence to show that she was a 'workman' and performing duties as contemplated under Section 2 (s) of I.D. Act. The onus was on the complainant to prove that she was 'workman'. In support of his argument the ld. adv for the opposite party resorted to Apex Court ruling in Mukesh K. Tripathi V/s. Sr. Divisional Manager, LIC & Ors. 2004 III CLR 534 wherein the Hon'ble Court on the point in para 37 observed that;

"In case any person raises a contention that his status has been changed from apprentice to a workman, he must plead and prove the requisite facts. In absence of any pleading or proof that either by novation of the contract or by reason of the conduct of the parties, such a change has been brought about, an apprentice cannot be held to be workman."

11. Likewise the complainant who was promoted as an officer in the year 2000 cannot be said 'workman' unless there is pleading and proof in respect of the change of cadre from Officer to Clerk or Cashier. In short, the complainant is not a 'workman' as defined under Section 2 (s) of the I.D. Act.

12. In this respect it is the case of the opposite party that the complainant is not member of the union who is party to the reference pending before this Tribunal. Specific suggestion was put to the complainant in her cross examination at Ex-10 that she was not member of Grindlays Bank Employees Union. She has not produced any subscription receipt or list of members reflecting her name therein. She has not led any evidence to show that, either she was 'workman' or the member of the union concern.

Therefore I hold that approval for dismissal of the complainant is not necessary and the opposite party was not required to follow the procedure as contemplated under Section 33 2 (b) of the I. D. Act. Accordingly I decide this point no.1 in the negative that the complainant is not a ‘workman’. Consequently I hold that as complainant is not ‘workman’, the opposite party cannot be held guilty of contravening provisions of Section 33 2 (b) of I.D. Act. Thus I decide this point no. 2 also in the negative and proceed to pass the following order:

### **ORDER**

The complaint stands dismissed with no order as to cost.

Date : 16/06/2014

K. B. KATAKE, Presiding Officer

नई दिल्ली, 12 अगस्त, 2014

**का.आ. 2258.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ हैदराबाद के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, दिल्ली के पंचाट (संदर्भ सं. 8/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 30/07/2014 को प्राप्त हुआ था।

[सं. एल-12011/66/2012-आईआर (बी-I)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 12th August, 2014

**S.O. 2258.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 8/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, No. 2, Delhi as shown in the Annexure, in the industrial dispute between the management of State Bank of Hyderabad and their workmen, received by the Central Government on 30/07/2014.

[No. L-12011/66/2012-IR (B-I)]

SUMATI SAKLANI, Section Officer

### **ANNEXURE**

#### **CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, KARKAROOOMA, DELHI 110 032**

Present : Shri Harbansh Kumar Saxena

ID No. 8/13

Sh. Sanjay Singh,

General Secretary,

Delhi Offices & Establishment Employees Union,  
BTR Bhawan, 13-A,  
Rouse Avenue, ND-110002

Versus

State Bank of Hyderabad.

### **No DISPUTE AWARD**

The Central Government in the Ministry of Labour vide notification No L-12011/66/2012-IR(B-I) dated 23.01.2013 referred the following industrial Dispute to this tribunal for adjudication :-

“Whether the employment of Shri. Sanjay Singh can be regularized with the State Bank of Hyderabad w.e.f. 25.03.2011? If yes, what other relief the workman is entitle to?”

On 05.02.2013 reference was received in this tribunal. Which was register as I.D No. 08/13 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

Workman on 22.02.2014 moved an application for withdrawal of Industrial Dispute. Application of withdrawal has been moved by his Ld. A/R for the workman. Who appeared and pressed that the No Dispute Award be passed in the instant case. None to oppose on this count.

In these circumstances it is a fit case in which no dispute award may be passed.

Reference is accordingly decided.

### **No. Dispute Award is accordingly passed.**

Dated : 22/07/2014

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 12 अगस्त, 2014

**का.आ. 2259.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बिलासपुर रायपुर क्षेत्रीय ग्रामीण बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 21/96) को प्रकाशित करती है जो केन्द्रीय सरकार को 16/07/2014 को प्राप्त हुआ था।

[सं. एल-12012/104/95-आईआर (बी-I)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 12th August, 2014

**S.O. 2259.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/96) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Bilaspur Raipur Kshetriya Gramin Bank and their workmen, received by the Central Government on 16/07/2014.

[No. L-12012/104/95-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/21/96****PRESIDING OFFICER : SHRI R.B.PATLE**

Shri Dharmu Ram Yadav,  
S/o Budhram Yadav,  
Gram Khatti, Tehsil Mahasamund,  
Distt. Raipur (MP) .....Workman

**Versus**

Chairman,  
Bilaspur Raipur Kshetriya Gramin Bank,  
Dayalbandh,  
Distt. Bilaspur .....Management

**AWARD**

Passed on this 16th day of June 2014

1. As per letter dated 5-1-96 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D.Act, 1947 as per Notification No.L-12012/104/95-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of Bilaspur Raipur Kshetriya Gramin Bank in relation to their Khatti Branch in terminating the services of Shri Dharmu Yadav S/o Shri Budhram Yadav, Messenger w.e.f. 10-4-94 is justified? If not, to what relief the concerned workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at page 3/1 to 3/3. Case of workman is that he was continuously working as messenger from 5-5-88 till termination of his services on 10-4-94 in IIInd party Bank. That his services were terminated without notice. Workman submits that he was doing work of cleaning branch office, filling water, filling vouchers, ledgers etc. supplying tea, drinking water to the staff members. His services were terminated without notice. There was no reason for termination of his services. Termination of his service was held illegal. Because of termination he and his family members are left for starvation. On such ground, workman prays for his reinstatement with consequential benefits.

3. IIInd party filed Written Statement at Page 5/1 to 5/3. The claim of workman is denied. It is submitted that IIInd party Bank is established as per act of 1976 for Banking facilities in rural areas. The circular issued by Finance Department of Govt. of India dated 28-5-81 prohibiting appointment for regular messengers. Said circular also provided for engagement of temporary daily wage employees as per existence. The wages were paid on hourly

basis. That the Ist party workman was temporarily engaged for 4 hours as per exigencies. Workman was not continuously working from 1988 to 1994. He had not completed 240 days continuous service during any of the calendar year. As workman was not appointed as messenger, there was no question of his termination. Workman was engaged on part time basis. On such ground, IIInd party prays for rejection of claim.

4. Ist party workman filed rejoinder at Page 10/1 to 10/3 reiterating his contentions in statement of claim that he was working from 1988 to 1994. For sometime branch was transferred to Mahasamund. That IIInd party had admitted before ALC that workman was maintaining passbook, register, index register etc. It shows that workman was continuously working for whole day. Workman was also deputed to head office, Bilaspur at a distance of 200 kms. It shows that he was working more than 4 hours in a day.

5. IIInd party management filed additional reply at Page 13/1 to 13/10 reiterating its contentions in Written Statement that workman had not completed 240 days continuous service. The discontinuation of workman is covered under Section 2(oo)(bb) of I.D.Act. Branch Manager had no authority to appoint subordinate staff. That in 1988, IIInd party appointed 77 daily rated employees as messenger. Out of them, 31 employees were full time and 46 were part time employees. The management had sought sanction of 59 post of part time messengers to be selected. That employees who had completed 240 days working in a calendar year were given appointment. Workman was paid wages for his working days. That workman had worked only for 74 days during calendar year preceding the date of his non-engagement. He is not covered as employee under Section 25 B of I.D.Act. On such grounds, IIInd party prays for rejection of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |  |                     |
|--|---------------------|
| (i) Whether the action of the management of Bilaspur Raipur Kshetriya Gramin Bank in relation to their Khatti Branch in terminating the services of Shri Dharmu Yadav S/o Shri Budhram Yadav, Messenger w.e.f. 10-4-94 is justified? | In Negative         |
| (ii) If not, what relief the workman is entitled to?”  | As per final order. |

**REASONS**

7. Ist party workman is challenging legality of termination from service alleging violation of Section 25-F of I.D.Act. Workman has stated that he was working as messenger in IIInd party Bank in Khatti branch, Bilaspur till 10-4-94. He was doing work of filling drinking water,

bringing tea, dusting bank premises and other work. He was working during office hours, his services were terminated without notice. He was continuously working. He had worked more than 240 days in every calendar year. In his cross-examination workman says he was engaged on daily wages. He was doing cleaning work, fetching drinking water. Appointment order in writing was not given to him. After 9-4-94, he was not engaged on work. He was paid wages under receipts. He received education upto 12th standard. He was engaged in Bank form 5-5-88. He denies that he had worked only for 75 days in 1988. That it is not written in his affidavit of evidence that he was working from 1988 to 9-4-94. He denies that he worked for 74 days from 1-1-84 to 8-8-88. He was paid wages Rs.221/- per day. He claims ignorance whether Branch Manager has power to appoint the employees. Management's witness Anup Kumar in his affidavit of evidence has stated that as per circulars issued by Govt. of India, employees were engaged for cleaning, sweeping work. . Employees are not appointed against sanctioned post. Thus sweepers and messengers are appointed calling names from Employment Exchange etc. The affidavit of evidence of management's witness is silent about the number of days workman was engaged by the Bank. In his cross-examination Anup Kumar witness of management says he was working in Khatti branch in 1993-94. He was not working in 1988. He was unable to tell workman was working in said branch since 1988. The management's witness further says that workman was working as part time employee on daily wages. He had not brought record about his working. Original working vouchers were brought by him. The witness of the management was unable to tell working hours of workman. He claims ignorance whether working of workman cleaning of premises, serving drinking water was admitted before ALC. From evidence in cross-examination of witness of management, it is clear that he has no personal knowledge, he has not brought record about working hours and days related to the workman. Witness of management has stated that retrenchment compensation was not paid to the workman. He was not served with notice.

8. Management's witness Shri A.K.Dixit has stated in his affidavit of evidence that the part time employees were engaged for cleaning etc. work for 4 hours per day. Workman had worked 75 days during May 88 to August 88. Details of working days of workman from May 88 to 1994 is furnished. However the witness of management did not remain present for his cross-examination. His evidence cannot be considered. Thus the evidence of 1st party workman is direct evidence of his working whereas witness of management has no personal knowledge. He has not produced documents about working of workman. Question is whether the evidence of workman should be rejected in reference of evidence of management's witness. In my considered view, it should be answered in favour of

workman. Considering evidence of workman, it is proved that workman was continuously working from 1988 to 1994. His services are terminated without notice. He is not paid retrenchment compensation. Therefore termination of his service is illegal. For above reasons, I record my finding in Point No.1 in Negative.

9. Point No.2- In view of my finding in Point No.1, workman was continuously working from 1988 to 1994. His services are terminated without notice. Workman was not selected following recruitment process. He was engaged on daily wages. Appointment letter was not given to him. Considering nature of employment, workman cannot be reinstated. In my considered view, reasonable compensation would be appropriate in the matter. For violation of Section 25-F of I.D.Act, termination is illegal. Considering length of service from 1988 to 1994, compensation Rs. 1 Lakh would be proper and reasonable. Accordingly I record my finding in Point No.2.

10. In the result, award is passed as under:-

- (1) The action of the management of Bilaspur Raipur Kshetriya Gramin Bank in relation to their Khatti Branch in terminating the services of Shri Dharmu Yadav S/o Shri Budhram Yadav, Messenger w.e.f. 10-4-94 is not legal.
- (2) 2nd party is directed to pay compensation Rs. 1 Lakh to the workman within 30 days from date of publication of award.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

11. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 12 अगस्त, 2014

**का.आ. 2260.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ सं. 177/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/07/2014 को प्राप्त हुआ था।**

[सं. एल-12012/207/2000-आईआर (बी-I)]

सुमित्र सकलानी, अनुभाग अधिकारी

New Delhi, the 12th August, 2014

**S.O. 2260.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 177/2000) of the Cent. Govt. Indus. Tribunal-cum-Labour Court,

Lucknow as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 16/07/2014.

[No. L-12012/207/2000-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL —CUM- LABOUR COURT LUCKNOW

PRESENT : Dr. MANJU NIGAM, Presiding Officer

I.D. No. 177/2000

Ref. No. L-12012/207/2000-IR(B-I) dated: 31.10.2000

#### BETWEEN

The Dy. General Secretary  
State Bank of India Staff Association,  
C/o State Bank of India,  
148, Civil Lines,  
Bareilly (U.P.) – 243 001,  
(Espousing cause of Shri Dinesh Babu)

#### AND

The Dy. General Manager  
State Bank of India  
Zonal Office, 148 Civil Lines  
Bareilly (U.P.)

#### AWARD

1. By order No. L-12012/207/2000-IR(B-I) dated: 31.10.2000 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Dy. General Secretary, State Bank of India Staff Association, C/o State Bank of India, 148, Civil Lines, Bareilly (U.P.) and the Dy. General Manager, State Bank of India, Zonal Office, 148 Civil Lines, Bareilly (U.P.) for adjudication.

2. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT OF STATE BANK OF INDIA, BAREILLY IN RELATING TO DENIAL OF APPOINTMENT TO SHRI DINESHBABU SON OF SHRI SAHIB SINGH EX-RECORD KEEPER ON COMPASSIONATE GROUND AS PER THE CONDITIONS LAID DOWN BY HIM IN HIS REPRESENTATION FOR VOLUNTARY RETIREMENT IS JUST, FAIR AND LEGAL? IF NOT, WHAT RELIEF HE IS ENTITLED TO AND FROM WHAT DATE?”

3. The case of the workman's association is that one Shri Sahib Singh, Record Keeper of the State Bank of India, Badaun Branch a member of the State Bank of India Staff Association, Bareilly Module, sought conditional voluntary retirement, on medical ground, with condition that his son may be appointed in his place. It is submitted that the bank vide their letter dated 07.10.1996 acceded to his request and mentioned that he will be treated retired w.e.f. 13.09.96. It is also stated that regarding appointment of his son, the bank required recommendations on prescribed format after obtaining a fresh request from Shri Sahib Singh in accordance with the provisions of the Scheme; and accordingly, the representation was moved. Shri Sahib Singh died during the course of correspondence with the bank on 27.1.1996; but the bank has not given compassionate appointment to the son of Shri Sahib Singh viz. Dinesh Babu. Accordingly, it has been prayed by the association that the son of deceased employee be given compassionate appointment in accordance with the conditional voluntary retirement application of Shri Sahib Singh.

4. The management of the State Bank of India has filed its written statement; whereby it has denied the claim of the staff association with submission that the claimant, Dinesh Babu is not a member of the staff association, therefore, the association has no locus standi to raise the present industrial dispute. It has been further submitted that Dinesh Babu was never employed in the Bank, therefore, there exists no dispute under the provisions of Industrial Disputes Act, 1947. It is specifically denied by the Bank that the voluntary retirement of Shri Sahib Singh was conditional, and the condition was on the appointment of I son Dinesh Babu. The bank has pleaded that Shri Sahib Singh's application for voluntary retirement was accepted by the Management on recommendations of the Medical Board and he was retired w.e.f. 13.09.96. As regards giving appointment to his son in his place, the competent authority vide its letter date 17.10.96 directed the Deputy General Manager, SBI, Zonal Office, Bareilly, to submit his recommendations on the prescribed form after obtaining his fresh request from him in accordance with the provisions of the scheme. It is submitted by the Bank that the widow of late Sahib Singh does not require any support from any of her sons as she is getting family pension of Rs. 5790/- per months and living in her own house and received more than Rs. 2,00,000/- as terminal benefits. Thus, there was no pecuniary need for the family left behind by late Sahib Singh. It is also submitted by the bank that under scheme for compassionate appointment the application on prescribed proforma for appointment on compassionate ground should be ordinarily received immediately on the retirement of an employee and should in no case be entertained after 60 days of the date of retirement of services of an employee. But in the present

case the claimant, Dinesh Babu did not prefer any application within the prescribed period of 60 days from the date of retirement of Shri Sahib Singh i.e. 13.09.96; and accordingly, the compassionate appointment to his son, Dinesh Babu was denied by the Bank. Accordingly, the Bank has prayed that the claim of the staff association be rejected being devoid of any merit.

5. The staff association has filed its rejoinder wherein it has submitted that it espoused the cause of Dinesh Babu s/o late Shri Sahib Singh after taking a resolution in the meeting of Association. It is also submitted that the present dispute has been raised by the Association on behalf of the claimant against the non-consideration of representation submitted by Shri Saheb Singh for his voluntary retirement; hence, it is an industrial dispute within the terms of Industrial Disputes Act, 1947. It is also submitted that application for compassionate appointment was moved during the life of Shri Sahib Singh and when the bank required the same in prescribed proforma, another application in prescribed proforma was moved by the claimant within 60 days after the date of late Sahib Singh.

6. The parties filed documentary evidence in support of their claim. The workman examined himself whereas the management examined Shri Surendera Kumar, Manager in support of their respective stands. Parties availed the opportunity to cross-examine the witnesses of each other and forwarded oral arguments also.

7. Heard the authorized representative of the parties and perused entire evidence on record.

8. The authorized representative of the staff association has contended that there is scheme for compassionate appointment, contained in Chapter No. VII of Hand Book of Staff Matters. It is contended that on demise of Shri Sahib Singh who had taken voluntary retirement on the medical grounds with condition that his son be appointed in his place, the bank denied compassionate appointment to his son, Dinesh Babu.

9. In rebuttal, the authorized representative has contended that the claim was never employed by the Bank. The claimant, Dinesh Babu is not a member of State Bank of India Staff Association, as such, the staff association has got no locus standi to raise any industrial dispute. Also, there exist no industrial dispute between the bank and the claimant. The management has contended that the claimant was required to apply for compassionate appointment, on prescribed proforma within 60 days from the date of retirement of Shri Sahib Singh; but he failed to do so. It is also argued that the only ground which can justify compassionate appointment is the penurious condition of the deceased's family and offering employment irrespective of the financial condition of the

family is, legally not permissible. It was contended that the widow of late Shri Sahib Singh is not financially dependent upon any one hence there is no need to give compassionate appointment to any one of his dependent.

10. I have scanned evidence relied on by the parties in light of rival submissions.

11. The Bank has come up with objection that since the claimant, Dinesh Babu is neither an employee of the Bank nor a member of the Staff Association therefore, there exists no industrial dispute between the Bank and the claimant and also the Association has no locus standi to agitate the present matter.

Admittedly, the father of the claimant viz. Late Shri Sahib Singh was the employee of the Bank and was member of the Staff Association; and on his sudden demise, the Staff Association has moved a resolution to contest the case of the claimant regarding compassionate appointment. The bank while disputing the locus standi of the Association has not disputed the resolution passed to extend legal assistance to the family of its ex-member, therefore, the action initiated by a recognized trade union consequent to a resolution passed by its members cannot be held to be invalid in absence of any material proof.

12. The first part of the schedule of reference carries a question as to whether the issue of compassionate appointment can be treated as Industrial Dispute under I.D. Act, 1947. The section 2 (k) of the Act defines the term 'industrial dispute' as under:

"(k) "industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;"

A bare perusal of the above definition makes it clear that any dispute or difference between the employers and workmen regarding non-employment is covered with the term industrial dispute. In the present case the dispute exists between the staff association regarding non-employment of the claimant i.e. not giving compassionate appointment to the claimant whose cause is being espoused by the staff association. Therefore, in my opinion the same comes with the purview of 'industrial dispute' within the meaning of industrial dispute under the Industrial Disputes Act, 1947.

13. Now coming to the merits of the case, the management has taken plea that the voluntary retirement of the late Shri Sahib Singh was not with the condition that his son shall be appointed in his place; rather the competent authority vide its letter date 17.10.96 directed

the Deputy General Manager, SBI, Zonal Office, Bareilly, to submit his recommendations on the prescribed form after obtaining his fresh request from him in accordance with the provisions of the scheme. It is also the case of the bank that under scheme for compassionate appointment the application on prescribed proforma for appointment on compassionate ground should be ordinarily received immediately on the retirement of an employee and should in no case be entertained after 60 days of the date of retirement of services of an employee. But in the present case the claimant, Dinesh Babu did not prefer any application within the prescribed period of 60 days from the date of retirement of Shri Sahib Singh i.e. 13.09.96. It is also the case of the management that the widow of late Sahib Singh does not require any support from any of her sons as she is getting family pension of Rs. 5790/- per months and living in her own house and received more than Rs. 2,00,000/- as terminal benefits.

In rebuttal, the staff association has come up with the case that the application for voluntary retirement was conditional one and on acceptance of the application for voluntary retirement the son of Shri Sahib Singh was required to get appointed on compassionate grounds. It is also their case that the pecuniary benefits made available to the widow of late Shri Sahib Singh were insufficient to meet the requirements and also that the application regarding compassionate appointment, in prescribed proforma was moved within 60 days from the death of Sahib Singh.

14. Admittedly, Shri Sahib Singh sought voluntary retirement from the management of Bank vide his application dated NIL, paper No. 8/6 on medical grounds with request to give appointment to his son on his place. A medical board was constituted and on recommendations of the medical board, Sahib Singh was permitted to take voluntary retirement w.e.f. 13.09.96 vide letter dated 17.10.96, paper No. 8/5 wherein the Dy. General Manager of the Bank was advised as under:

“With reference to your letter No. BRY/RI/40/1183 dated the 20th September 1996, the appropriate authority has permitted Shri Sahib Singh, Record-Keeper to retire from the Bank’s services w.e.f. 13.09.1996 i.e. the date on which the Medical Board declared him unfit for service. However, before retiring Shri Singh, please ensure that no disciplinary action is pending/contemplated against him.

The case of the staff association is that the application for voluntary retirement from the Shri Sahib Singh was conditional one i.e. with condition to give appointment to his son in his place. But from perusal of above letter, relied on by the both the parties, it is crystal clear that Shri Sahib Singh was permitted to take voluntary retirement on medical grounds; but regarding

compassionate appointment of his son, it was advised to make application in prescribed proforma in accordance with the scheme.

In this regard the management has pleaded that the claimant did not prefer any application for compassionate appointment, in prescribed proforma, within 60 days of the date of retirement of his father, Shri Sahib Singh. In rebuttal, the association has come up with the pleading that the claimant requested for compassionate appointment during life time of Shri Sahib Singh and thereafter within 60 days of his death; but there is no documentary evidence on record to support this pleading from the association.

15. The management of the bank declined the compassionate appointment to the claimant on two grounds firstly due to non-submission of request in prescribed proforma within 60 days of the retirement of Shri Sahib Singh and secondly due to lack of pecuniary need of the widow of late Shri Sahib Singh. The management has pleaded that the widow of Sahib Singh is getting family pension of Rs. 5790/- per months and living in her own house and received more than Rs. 2,00,000/- as terminal benefits; and is not required to any assistance from any one. The staff association has denied the pleadings of the management and has adduced evidence of the claimant, Dinesh Babu whose evidence goes contrary to the pleadings. He has stated that his mother was ex-Gram Pradhan and had 5-6 Bighas of agricultural land. He has also stated that School viz. S.S. Memorial Convent School runs in his house. This goes to show that sufficient earning come to the widow of Sahib Singh apart from pension and terminal benefits received by her which is adequate to cope up with the liabilities upon her in form of marriage of a son and a daughter. Hon’ble Supreme Court in Umesh Kumar Nagpal vs. State of Haryana & others 1994(4) SCC 138 has held that compassionate appointment cannot be claimed as a matter of right. The only ground which can justify the compassionate appointment is the penurious conditions of the deceased’s family and offering employment irrespective of the financial condition of the family is legally impermissible.

16. Therefore, in view of facts and circumstances of the case and discussions made hereinabove, I am of considered opinion that the action of the management of State Bank of India in not giving compassionate appointment to Shri Dinesh Babu Son of Shri Sahib Singh is neither unjust; nor unfair; nor illegal. Hence, Shri Dinesh Babu is not entitled for any relief. The reference under adjudication is answered accordingly.

17. Award as above.

Dr. MANJU NIGAM, Presiding Officer

LUCKNOW  
17th June, 2014.

नई दिल्ली, 12 अगस्त, 2014

**का.आ. 2261.**—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लक्ष्मी विलास बैंक लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ सं. 79/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/08/2014 को प्राप्त हुआ था।

[सं. एल-12012/62/2013-आईआर (बी-I)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 12th August, 2014

**S.O. 2261.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 79/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Lakshmi Vilas Bank Ltd. and their workmen, received by the Central Government on 01/08/2014.

[No. L-12012/62/2013-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 24th July, 2014

**Present :** K.P. PRASANNA KUMARI, Presiding Officer

#### Industrial Dispute No. 79/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Lakshmi Vilas Bank Ltd. and their workman)

#### BETWEEN

Sri M. Ananthakrishnan : 1st Party/Petitioner

#### AND

The Chairman : 2nd Party/Respondent  
Lakshmi Vilas Bank Ltd.  
Administrative Office  
Kathaparai  
Karur-639006

#### Appearance :

For the 1st Party/ : M/s Ajoy Khose, Advocates  
Petitioner

For the 2nd Party/ : M/s T.S. Gopalan & Co.,  
Respondent Advocates

#### AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/62/2013-IR(B-I) dated 24.07.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the Management of Lakshmi Vilas Bank in discharging the services of Sri Ananthakrishnan w.e.f. 20.11.1999 is justified? To what relief is the workman concerned entitled?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 79/2013 and issued notices to both sides. Both sides have entered appearance through their counsel and filed Claim and Counter Statement respectively.

3. The averments in the Claim Statement in brief are these:

The petitioner was appointed as Sub-Staff in the Respondent Bank in the year 1989. While the petitioner was working at Seevalaperi Branch in Tirunelveli District, on 09.12.1997, a lorry receipt and Rs. 67/- were handed over to him for taking delivery of a parcel containing some complimentary articles. He went to the parcel office on 09.12.1997 and every date thereafter till 12.12.1997. But he was informed from the parcel office that the article has not reached their office. As he could not take delivery of the parcel, the petitioner returned the money and lorry receipt to the Branch Manager who was staying in the same lodge in which the petitioner was staying, on 12.12.1997 the petitioner could not report for duty from 13.12.1997 since he felt sick. He received a charge memo dated 24.03.1998 wherein it was alleged that he received Rs. 67/- and Lorry Receipt on 09.12.1997 but did not take delivery of the parcel till 12.12.1997 and unauthorisedly absented from duty since 13.12.1997 and consequently, the branch had to take delivery of the parcel by giving indemnity bond and this had incurred expenditure of Rs. 22/- in addition to demurrage charges and that he misappropriated the money of the bank.

Though the petitioner submitted his explanation, this was not accepted by the Respondent. An enquiry was ordered. The enquiry was not conducted in accordance with the principles of natural justice. The petitioner was not given fair and reasonable opportunity to defend his case. His request to summon the concerned Branch Manager was turned down by the Enquiry Officer. Further he was not allowed to adduce evidence on his side. The Enquiry Officer submitted a report finding that the petitioner is guilty of the charges. Before accepting the findings of the Enquiry Officer, the Disciplinary Authority did not call for the views of the petitioner on the findings of the Enquiry Officer. By order dated 20.11.1999 the petitioner was discharged from the service of the Respondent. The appeal filed by the petitioner

before the Appellate Authority was dismissed by order dated 02.02.2000. The petitioner had filed appeal before the Deputy Commissioner of Labour under Tamilnadu Shops and Establishments Act. The appeal was dismissed as not maintainable. The petitioner had then filed a Writ Petition before the High Court seeking to quash the order in appeal. On legal advice the petitioner withdrew the Writ Petition on 02.09.2010 with liberty to raise Industrial Dispute against the dismissal. It is in the above circumstances, the petitioner was not able to raise the dispute immediately. The order discharging the petitioner from service is illegal, arbitrary and unjust. An order may be passed holding that the order of dismissal is unjust and also directing the Respondent to reinstate the petitioner with continuity of service, back wages and other attendant benefits.

**4. The Respondent has filed Counter Statement contending as follows :**

The petitioner was initially engaged as a Temporary Sub-Staff and subsequently his appointment was regularized. Initially he was working at Tirunelveli Branch. On his request he was transferred to a branch which is closer to his parental house. During this period he turned out to be a chronic absentee. So he was posted to Gandhipuram Branch, Coimbatore. Even while working here, he was not regular in attending work. He was then posted to Seevalaperi branch near Tirunelveli. While working here, he was staying in a lodge where the Branch Manager was also staying. The petitioner is known to have borrowed extensively and in order to avoid his creditors he used to absent from work. On 09.12.1997, after ascertaining that the consignment had reached the parcel office, the petitioner was entrusted with Rs. 67/- and Lorry Receipt for taking delivery of a parcel. The petitioner did not take delivery nor did he return the cash obtained from the Branch. He unauthorisedly absented from duty from 13.12.1997. On 23.12.1997 the Branch Manager himself went to the Parcel Office, paid the freight charges, executed an indemnity bond and cleared the consignment. The petitioner returned to duty only on 31.12.1997 and he repaid the sum of Rs. 67/- on 09.08.1998 only. On 24.03.1998, the petitioner was issued Show Cause Notice for his failure to clear the consignment and also for retaining Rs. 67/- for his own use and calling upon him to show cause why disciplinary action shall not be taken against him. He was directed to appear for an enquiry. The petitioner was found guilty of the charges, in the enquiry held. After considering the written statement given by the petitioner, on 30.11.1999, the Disciplinary Authority had passed order discharging the petitioner from service. The petitioner who had filed Writ Petition before the High Court after dismissal of the appeal filed before the Tamilnadu Shops and Commercial Establishments Act did not take any steps to bring the Writ Petition for hearing for almost 9 years. The dismissal of the Writ Petition as withdrawn on the basis of the

endorsement made by the petitioner would not amount to delay on his part being condoned. Even after dismissal of the Writ Petition the petitioner waited for 2 years to move the Conciliation Officer. It is not admitted that the petitioner handed over the Lorry Receipt and the money to the Branch Manager on 12.12.1997. the enquiry was held in a fair and proper manner. The Respondent reserves its right to lead evidence in support of the charges if it is necessary. The petitioner is not entitled to any relief.

**5. The evidence in the case consists of oral evidence of MW1 and documents marked as Exts.W1 to Exts.W4 and Exts.M1 to Exts.M38.**

**6. The points for consideration are:**

- (i) Whether the action of the Respondent in discharging the petitioner from service is justified?
- (ii) What is the relief to which the petitioner is entitled?

#### **The Points**

**7. The petitioner has raised the dispute seeking the relief of reinstatement in service on account of his having been discharged from service by the Respondent Bank. The case of the Bank is that the petitioner who was working as Sub-Staff at Seevalaperi Branch was entrusted with Rs. 67/- and a Lorry Receipt for taking delivery of a parcel on 09.12.1997 but he retained them with him until 12.12.1997 without taking delivery, absented himself unauthorisedly from 13.12.1997 returned to duty only on 31.12.1998 and repaid the amount on 09.08.1998 only. The Respondent has discharged the petitioner from service on the basis of the finding of a domestic enquiry conducted by it.**

**8. It is admitted by the petitioner in the Claim Statement itself that he was entrusted with a Lorry Receipt and an amount of Rs. 67/- on 09.12.1997. According to him, though he had been going to the parcel office continuously from 09.12.1997 till 12.12.1997 the parcel had not reached the office and so he could not take delivery of the article. According to him he had returned the money and the Lorry Receipt to the Branch Manager on 12.12.1997 itself.**

**9. Ext.M1 is the order dated 03.02.1998 suspending the petitioner from service. In this order of suspension there is reference to misappropriation of money by the petitioner for temporary period. The details of the misconduct allegedly committed by the petitioner are not shown in the suspension order. It does not even state what is the amount that was misappropriated. Ext.M2 is the charge sheet dated 24.03.1998 served on the petitioner. In this it is stated that the petitioner had received a sum of Rs. 67/- alongwith the Lorry Receipt on 09.12.1997 to take delivery of a parcel but wantonly had not taken delivery until 12.12.1997 and had abstained from attending the office since 13.12.1997. It is further stated that as a result of his wanton act the branch had to take delivery of the parcel on 23.12.1997 by giving indemnity bond incurring expenditure of Rs. 22/-. What is**

to be understood from the charge sheet is that the charge against the petitioner is for the act of retaining the amount of Rs. 67/- with him and misappropriating the same and also causing loss to the bank by making it give an Indemnity Bond to parcel office for taking delivery of the article. Though there is reference to unauthorized absence of the petitioner since 13.12.1997 in the charge sheet, this does not seem to be made a charge against the petitioner. From the Counter Statement also it could be assumed that absence of the petitioner was not the subject of the charge sheet. What is stated in the Counter Statement is that Show Cause Notice was issued to him on 24.03.1998 for his failure to clear the consignment and also for retaining the sum of Rs. 67/- for his own use. There is no reference to unauthorized absence of the petitioner as the subject of the charge in the Counter Statement. Again, even as seen from the Counter Statement, the petitioner had returned to duty on 31.12.1997 and it was much after this, on 03.02.1998 even the order of suspension was issued on the petitioner without any reference to unauthorized absence. Though the Claim Statement refers to absence, it does not state for which period the petitioner has been absent. So what one has to assume is that the charge against the petitioner was only for the retention of Rs. 67/- and Lorry Receipt and misappropriating the amount and making the bank give an indemnity bond to the parcel office.

10. As could be seen from the Claim Statement the petitioner has got a contention that the departmental enquiry against him was not conducted in a fair and proper manner. He has stated in his Claim Statement that he was not given fair and reasonable opportunity to defend his case. He has further stated that the Enquiry Officer had allowed the management to mark documents without examining the authors of the documents. In answer to this, the Respondent has stated in the Claim Statement that the enquiry was done in a fair and proper manner and that in spite of this contention the Respondent reserves its right to lead evidence before this Tribunal. It is probably in accordance with this contention the Respondent has adduced evidence before this Tribunal through MW1 who was working as Asstt. Manager in the Human Resources Department and marked Exts.M24 to Exts.M38 before this Tribunal. However, the documents marked through this witness are documents said to be pertaining to the past conduct of the petitioner. This witness is not one who is directly involved or has anything to do with the incident which has resulted in raising the dispute. The proceedings of enquiry alone is there to adjudicate the charge on the petitioner.

11. A perusal of proceedings of enquiry justifies the contention raised by the petitioner that it was not held in a proper manner and opportunity was denied to him. It could be seen from the proceedings dated 01.09.1998 and 05.10.1998 that the management had marked documents

before the Enquiry Officer without examining the concerned Officer. In fact the management has not examined anybody on its side. It is merely stated by the Enquiry Officer that Ext.M1 to Ext.M3 are marked on 01.09.1998 and Ext.M4 to Ext.M7 are marked on 05.10.1998. There is no way to know which are the documents marked before the Enquiry Officer. The documents said to have been marked are not seen produced before this Tribunal also. The Enquiry Officer has stated in his finding that the amount of Rs. 67/- and Lorry Receipt has been received by the petitioner. There is reference to documents in the enquiry report also but these are referred to only by Exhibit Numbers. However, even as admitted by the petitioner he has received the Lorry Receipt and cash of Rs. 67/-. He has got a case that he was not able to take delivery of the article since it did not reach the parcel office. He seems to have given a written statement to the Respondent. Even this is not produced. There is reference to one Ext.M6 in the enquiry report which according to the Enquiry Officer proves that the petitioner was absent from 13.12.1997. However, this document also is not available for perusal for this Tribunal.

12. It can be seen from the enquiry proceedings that the petitioner has been making hectic effort to summon the Branch Manager on his own side to prove his case. The petitioner has even requested the management to direct the Branch Manager to produce the explanation letter given by him. The management's representative has resisted the move of the petitioner to summon the Manager. The Enquiry Officer has favoured the Management by declining the application of the petitioner to summon the Branch Manager. Rather than summoning the witness the Enquiry Officer seems to have directed the petitioner to produce the witness. Since the attempt of the petitioner to this effect has failed the enquiry has undergone some adjournments. The evidence of the defense side was closed by the Enquiry Officer on a day when the petitioner as well his representative were not present.

13. The Counsel for the petitioner has referred to the decision in LIC OF INDIA AND ANOTHER VS. RAM PAL SINGH BISEN reported in 2010 III LLJ 57 (SC) where it was held that marking of document as exhibit would not amount to its proof and there had to be proved in accordance with law. None of the documents before the Enquiry Officer were proved in accordance with law. As stated, one does not even know which are the documents that were marked. The Counsel for the Respondent has referred to the decision in STATE BANK OF INDIA AND OTHERS VS. NARENDER KUMAR PANDEY reported in 2013 2 LLJ 1 where it was held that in an ex-parte enquiry, if the charges are borne out from the documents kept in the normal course of business no oral evidence is necessary to prove the charges. In the present case it is not an ex-parte enquiry. The petitioner has all along been participating in the enquiry except on the last date when himself and his representative were absent. In fact the findings of the Enquiry Officer is based on the documents which are not proved so there is no justification at all for the finding.

14. The Respondent has brought into evidence Exts.M24 to Exts.M38 to show that the past conduct of the petitioner was not satisfactory. However, in the enquiry proceedings there is no reference to the past conduct at all. MW1 has admitted during his cross-examination that there is no document to show that Exts.M24 to Exts.M35 were served on the petitioner. There is reference to two complaints against the petitioner earlier and this seems to have been brought to the notice of the Enquiry Officer also. However, when the petitioner has taken the stand that those complaints are to be produced, the Presenting Officer for the Management has taken a stand that those are not relevant and need not be produced. In any case having found that the charge in the enquiry proceedings is not established, the past conduct of the petitioner is not of any consequence at all.

15. The Counsel for the Respondent has vehemently argued that in any case the petitioner is not entitled to any relief in view of the delay in initiating the proceedings. According to the petitioner, he has been vigilantly prosecuting his case but initially he happened to approach wrong forums. In fact the petitioner, after dismissal of his appeal by the Appellate Authority has chosen the wrong forum under Tamilnadu Shops and Commercial Establishments Act to file an appeal which was dismissed as not maintainable. After its dismissal he had filed Writ Petition before the High Court of Madras in 2001. This has remained in file until 2010 in which year it was dismissed as withdrawn which withdrawal according to the petitioner was on legal advice. The Counsel for the Respondent has referred to the decision in CHAIRMAN-CUM MANAGING DIRECTOR, NLCLTD VS. VS RANGANATHAIYER where it was held that approaching wrong forum is no justification to condone delay. The counsel has also referred to the fact that even after dismissal of the Writ Petition the petitioner has waited for two years before he raised the dispute. Certainly there is no doubt there were latches on the part of the petitioner. However, it could be seen that he did not remain idle after the result of the enquiry has turned against him. It has been pointed out by the counsel for the petitioner that merely on account of the delay on the part of the petitioner, even if there is any, the reference need not be decided against the petitioner. It has been pointed out by the counsel that the relief in favour of the petitioner could be moulded taking the latches on the part of the petitioner also.

16. It is apparent that the enquiry was not conducted in a fair and proper manner. Even assuming that the petitioner had committed the misconduct of failing to take delivery of the parcel and retaining the amount and Lorry Receipt for some time, the misconduct could not be considered as one which is so grievous as to result in his discharge from service. The punishment itself is too disproportionate to the nature of offence committed.

17. The petitioner is entitled to be reinstated in service. However, taking into account the latches on his part, I am not inclined to allow any back wages. The period of absence of the petitioner from service will be taken into account for continuity of service only.

18. In view of my discussion above, the Respondent is directed to reinstate the petitioner in service within one month.

The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 24th July, 2014).

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined :

For the 1st Party/Petitioner : None

For the 2nd Party/Management : MW1, Sri K. Avinash

#### Documents Marked:

#### On the petitioner's side

Ex.No.	Date	Description
Ex.W1	22.05.1989	Appointment order issued by the 2nd Party to the 1st Party
Ex.W2	05.06.1989	Joining Report submitted by the 1st Party
Ex.W3	19.06.2013	Failure Report
Ex.W4	24.07.2013	Reference

#### On the Management's side

Ex.No.	Date	Description
Ex.M1	03.02.1998	Order suspending the petitioner by the Respondent
Ex.M2	24.03.1998	Charge Sheet
	31.07.1998	
	01.09.1998	
	14.09.1998	
	05.10.1998	
	23.10.1998	
Ex.M3	10.11.1998	Proceedings of Enquiry
	26.11.1998	
	10.12.1998	
	29.12.1998	
	18.01.1999	
	29.01.1999	
	19.02.1999	

Ex.M4	12.03.1999	Letter from petitioner's counsel to EO	Ex.M23	25.04.2013	Counter Affidavit of the Bank before ALC (C)
Ex.M5	12.03.1999	Reply from EO to petitioner's counsel acceding to their request to adjourn the enquiry	Ex.M24	26.04.1997	Caution to the petitioner for frequent absence/leave from Work
Ex.M6	08.04.1999	Letter from petitioner's counsel to EO praying adjournment	Ex.M25	15.07.1997	Memo to petitioner calling for his explanation for his unauthorized absence in continuation of leave on LTC (UAA24.06.1997 to 26.06.1997)
Ex.M7	08.04.1999	Proceedings of enquiry – adjourning enquiry at petitioner's request to 21.04.1999 – (vide request petition dated 08.04.1999)	Ex.M26	20.08.1997	Reminder to petitioner for his reply to memo dated 15.07.1997
Ex.M8	21.04.1999	Proceedings of enquiry – petitioner only present –defense evidence closed – parties advised to submit their written arguments – before 03.05.1999 – both sides noted	Ex.M27	01.09.1997	Notice to petitioner in respect of his unauthorized absence for 24.06.1997 to 26.06.1997
Ex.M9	24.12.1997	Letter from Seevalaperi Branch to Divisional Manager–Madurai Division – Regarding the petitioner	Ex.M28	02.11.1991	Caution – against availing leave frequently and advising the petitioner to improve his attendance
Ex.M10	20.05.1999	Letter from EO to DA/GM – Karur enclosing findings dated 20.05.1999	Ex.M29	26.09.1991	Unauthorized Absence since 07.09.1991 and advising to report for work within 3 days
Ex.M11	14.09.1999	Second Show Cause Notice proposing punishment of discharging from service and posting personal hearing on 25.09.1999	Ex.M30	09.07.1992	Again cautioned for unsatisfactory attendance and advising to show improvement in attendance
Ex.M12	25.09.1999	Proceedings of personal hearing	Ex.M31	24.09.1992	Unauthorized Absence since 11.09.1992 – Advised to report immediately with explanation for absence
Ex.M13	25.09.1999	Representation of petitioner filed in the personal hearing	Ex.M32	28.09.1992	Advising petitioner to contact the doctor referred by the Bank in case of seeking leave on medical grounds
Ex.M14	20.11.1999	Final order issued to the petitioner by the Respondent	Ex.M33	01.12.1992	Letter to petitioner regarding absence from duty
Ex.M15	06.12.1999	Representation of the petitioner to the General Manager/Appellate Authority	Ex.M34	29.03.1996	Charge Sheet for unauthorized absence on various spells between 24.04.1995 and 15.12.1995 (59 days)
Ex.M16	20.12.1999	Notice of personal hearing	Ex.M35	27.03.1997	Awarding punishment of stopping one increment due to him with cumulative effect – in reference to charge sheet dated 29.03.1996
Ex.M17	27.12.1999	Minutes of personal hearing before the Appellate Authority	Ex.M36	20.07.2001	Notice from ACL-Dindigul enclosing copy of 2A petition dated 19.03.2001 of M. Anantha Krishnan
Ex.M18	27.12.1999	Memorandum of Appeal on behalf of petitioner by D/R		24.07.2001	
Ex.M19	02.02.2000	Order of the Appellate Authority	Ex.M37	10.08.2001	Bank's reply to ACL – Dindigul
Ex.M20	14.03.2001	Order of the TNSE Act Authority in TSE Case No. 3 of 2000	Ex.M38	16.10.2001	Order of ACL closing further proceedings since the petitioner is withdrawing his petition to raise
Ex.M21	02.09.2010	Order of Hon'ble Madras High Court in WP No. 19368 of 2001		30.10.2001	Dispute before Central Government Industrial Tribunal
Ex.M22	25.09.2012	Petition under Sec.2A of ID Act filed by petitioner before ALC (C), Chennai			

नई दिल्ली, 12 अगस्त, 2014

**का.आ. 2262.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोटक महिन्द्रा बैंक लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, दिल्ली के पंचाट (संदर्भ सं. 104/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 05/08/2014 को प्राप्त हुआ था।

[सं. एल-12012/51/2013-आईआर (बी-I)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 12th August, 2014

**S.O. 2262.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 104/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Delhi as shown in the Annexure, in the industrial dispute between the management of Kotak Mahindra Bank Ltd. and their workmen, received by the Central Government on 05/08/2014.

[No. L-12012/51/2013-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

**BEFORE SHRI HARBANSH KUMAR SAXENA,  
PRESIDING OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. I, KARKARDoomA  
COURTS COMPLEX, DELHI**

**I.D. No. 104/2013**

Shri Brinda Prasad Shukla,  
S/o Shri Ram Adhar Shukla,  
Through Checkmate Services Karamchari Sangh (Regd.),  
Ajmeri Gate,  
Delhi 110 006. ....Workman

**Versus**

1. The Manager,  
Kotak Mahindra Bank Limited,  
Ground Floor,  
Ambadeep Building,  
Kasturba Gandhi Marg,  
New Delhi 110 001
2. The Senior General Manager,  
Checkmate Services Pvt. Ltd.,  
58-60, Pankha Road, Vashisht Park,  
Sagarpur,  
New Delhi 110006 .....Managements

#### AWARD

M/s. Checkmate Services Pvt. Ltd.(in short the management) appointed a Security Guard on 24.06.2007. He was deployed at Kotak Mahindra Bank Ltd. (hereinafter to referred to as the Bank). The management entered into a contract with Kotak Mahindra Bank for providing

contractual security services. On 02.04.2012, the Security Guard, alongwith approximately 15 other employees, resorted to unruly behaviour and brutally assaulted and abused the Field Officer on duty. On earlier occasion also, he had assaulted a Field Supervisor in public when he was caught napping during duty hours. A domestic enquiry was constituted against him. He was dismissed vide order dated 07.06.2012 of the Disciplinary Authority. Aggrieved by the said, the Security Guard raised a demand on the bank for reinstatement of his services. When the Bank did not respond to his demand, he raised an industrial dispute before the Conciliation Officer. Since the dispute was contested by the Bank, conciliation proceedings failed. On consideration of failure report, submitted by the conciliation Officer, the appropriate Government referred the dispute for adjudication to this Tribunal vide order No.L-12012/51/2013-IR(B-I), New Delhi, dated 28.06.2013, with following terms of reference:

“Whether the action of the management of Kotak Mahindra Bank and Checkmate Services Pvt. Ltd. in terminating the services of Shri Brinda Prasad Shukla S/o Shri Ram Adhar Shukla is legal and/or justified and if not what relief the workman is entitled and what directions are necessary in this respect?”

2. When reference was received in this Tribunal, then it was registered at ID No.104 of 2013 and notice to the claimant/workman was issued to file claim statement along with documents within 15 days.

3. Claim statement was filed by the Security Guard, Shri Brinda Prasad Shukla, pleading that he was employed as a Security Guard by the Bank on 08.06.2007 at a monthly salary of Rs. 7580.00. He was issued an identity card. He worked to entire satisfaction of his supervisors and never gave a chance of complaint. No appointment letter, attendance card, leave book, bonus, provident fund receipt etc. was ever issued to him. When he demanded for the same, the management started pressuring him. The claimant is an office bearer of Checkmate Services Shaparkarta Sangh and because of his union activities, his services were dispensed with on 23.09.2009. He filed a case before the Labour Court on whose orders, he was reinstated in service on 23.07.2011. He has been serving the bank sincerely since then. However, the bank felt offended by his union activities and his constant requests for his legal rights and his services were abruptly terminated on 08.05.2012 illegally, arbitrarily and without following due process of law. His earned wages for the period 01.04.2012 to 08.05.2012, leave pay, overtime, bonus etc. were also not paid. He raised a notice of demand on 27.09.2012 claiming reinstatement in services. The Bank opted to keep mum. He had put in 240 days service prior to his termination. He is unemployed from the date of his termination. Action of the Bank was violative of the provisions of section 25F and 25H of the Industrial

Disputes Act, 1947. He seeks reinstatement in services of the Bank with all consequential benefits.

4. The management Bank opted not to put in its appearance despite various notices, hence case was proceeded ex-parte against the Bank on 13.11.2013.

5. Claim was demurred by the management pleading that the appropriate Government had not considered the material facts and made the reference in a mechanical manner. The claimant was appointed as a Security Guard on 24.06.2007 and his last drawn wages were Rs.7020.00. On 02.04.2012 at about 11.20 hours, the claimant alongwith approximately 15 co-employee supports gathered at the site of the bank and resorted to riotous behaviour and brutally assaulted the Field Officer on duty. On an earlier occasion, he was earlier found sleeping during duty hours and on being reprimanded, he assaulted the Field Officer in public. The claimant had not put in 240 days continuous service. During the short span of probation, services of the claimant was far from satisfactory. The claimant was issued a show-cause notice on 09.04.2012, to which no explanation was tendered. Shri Sudhir Chauhan, Advocate was appointed as enquiry to look into the truth of imputation of lapses against the claimant. However, despite several notices, the claimant opted not to attend the proceedings. The Enquiry Officer was left with no other option but to proceed ex-parte against the claimant and submit his report. On consideration of the report of the Enquiry Officer and relevant documents, the Disciplinary Authority concurred with the findings of the Enquiry Officer. Show-cause notices were issued on 09.04.2012 and 23.05.2012, to which the claimant preferred to keep mum, hence was rightfully dismissed from service. Along with the dismissal letter, cheque no.104035 dated 07.06.2012 for Rs.17,582.00 being full and final settlement was also sent to the claimant. He is not entitled to any relief, muchless the relief of reinstatement in service. His claim may be discarded, being devoid of merits, pleads the management.

6. Workman filed rejoinder on 12.11.2013 wherein he reaffirmed his allegations against the management Bank.

7. In order to establish his claim, the claimant entered the witness box to testify facts. During course of his cross-examination, parties submitted that there was chance of settlement. In view of these facts the Tribunal associated itself in process of settlement. Ultimately an amicable settlement was arrived at between the parties, contents of which are detailed in subsequent sections.

8. Claimant made a statement on oath that he is ready to settle his grievances with the management in case a sum of Rs.56,000.00 is paid to him towards full and final settlement of his claim relating to reinstatement in service, notice pay, retrenchment compensation, payment of wages, payment of leave encashment and other statutory benefits. He announced that on payment of Rs.56,000.00

to him, his claim would stand satisfied. Shri D.K. Samal, Deputy General Manager(HR) of the management unfolded that the management is ready to pay a sum of Rs.56,000.00 to the claimant towards full and final settlement of his claim, made in the present dispute.

9. Out of facts detailed by the parties it crystallized that the management has paid a sum of Rs.56,000.00 to the claimant on 06.05.2014 towards full and final settlement of claim of the claimant that on payment of Rs.56,000/- the claimant feels satisfied and his grievances relating to reinstatement in service, notice pay, retrenchment compensation, payment of wages, payment of leave encashment and other statutory benefits has come to an end. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : July 22, 2014

HARBANSHP KUMAR SAXENA, Presiding Officer

नई दिल्ली, 12 अगस्त, 2014

**का.आ. 2263.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार न्यू इंडिया इंसोरेनस कम्पनी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ सं. 2/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/08/2014 को प्राप्त हुआ था।

[सं. एल-17012/14/2003-आईआर (बी-I)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 12th August, 2014

**S.O. 2263.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of New India Insurance Company and their workmen, received by the Central Government on 11/08/2014.

[No. L-17012/14/2003-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

**PRESENT :** Dr. MANJU NIGAM, Presiding Officer

**I.D. No. 02/2004**

Ref. No. L-17012/14/2003-IR(B-I) dated: 14.11.2003

#### BETWEEN

Shri Devendera Prasad,

S/o Shri Ram Singh

Ex-Nazir, H. No. 611

In front of Post Office New Basti

Bijnore

**AND**

1. The Divisional Manager  
New India Insurance Company  
38, Navyug Market  
Ghaziabad (U.P.) – 201 001
2. The Regional Manager  
The New India Insurance Company,  
Regional Office,  
Gulab Bhawan (Back Inside),  
6, Bahadur Shah Zafar M  
New Delhi – 110 002.

**AWARD**

1. By order No. L-17012/14/2003-IR(B-I) dated: 14.11.2003, the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Devendra Prasad, S/o Shri Ram Singh, Ex-Nazir, H. No. 611, In front of Post Office, New Basti, Bijnore and the Divisional Manager, New India Insurance Company, 38, Navyug Market, Ghaziabad & the Regional Manager, The New India Insurance Company, Regional Office,, Gulab Bhawan (Back Inside), 6, Bahadur Shah Zafar M, New Delhi for adjudication.

2. The reference under adjudication is:

**“WHETHER THE ACTION OF THE MANAGEMENT OF NEW INDIA INSURANCE COMPANY IN TERMINATING THE SERVICES OF SHRI DEVENDERAPRASAD S/O LATE SHRI SHER SINGH, PEON-CUM-WATER MAN W.E.F. 25.06.2002 IS JUSTIFIED? IF NOT, WHAT RELIEF HE IS ENTITLED TO?**

3. The case of the workman, Devendra Prasad, in brief, is that he worked with the opposite parties from 17.06.1997 to 25.06.2002 on daily wages with intermittent breaks. It is submitted by the workman that his services have been terminated by the management w.e.f. 25.06.2002 without giving any notice or notice pay in lieu thereof, in violation of the provisions of Section 25 F of the Act. It is alleged by the workman that he was engaged against permanent and substantive work which is still existing. It is also alleged by the workman that the management availed his services with different names and terminated his services though retained other workman viz. Bijender who is junior to him. Accordingly, the workman has prayed that his termination dated 25.06.2002 be set aside and he be reinstated with consequential benefits.

4. The management has disputed the claim of the workman and filed its written statement; wherein it has stated that the workman's services were engaged on contract basis, as and when required on casual/temporary and intermittent basis and he was disengaged on completion of contract/accomplishment of work for which

he was engaged. The engagement of the workman was not against any permanent post nor against any work of perennial nature; hence there was no termination as such. It is submitted that no one junior to the workman was retained in the services of the management and the provisions of the Section 25 F of the Act do not attract in the present case. Accordingly, the management has prayed that the claim of the workman be rejected without any relief to him being devoid of merit.

5. The workman has filed its rejoinder whereby he has stated nothing new apart from reiterating his averments already made in the statement of claim.

6. The parties have filed photo copy of documentary proof in support of their respective claim. The workman has examined himself whereas the management examined Shri Rajesh Kumar Jain, Divisional Manager in support of their stands. The parties availed opportunity to cross-examine each other's witnesses apart from availing opportunity to forward oral arguments.

7. Heard representatives of the parties and perused entire evidence on record and gone through respective pleadings of the parties.

8. The authorized representative of the workman has argued that the workman worked with the opposite party for more than five years since 17.06.1997; but the management has terminated his services without any notice or notice pay in lieu thereof, in violation to the provisions contained in section 25 F of the Act. He has also contended that the management while terminating the services of the workman retained other juniors and accordingly, violated the provisions of Section 25 G & H.

9. In rebuttal, the authorize representative of the management has contended that there was no relationship of employer and employee between the management and the workman and the workman was neither been appointed by the management nor was paid for the same at any point of time. It is argued that the workman was engaged as casual worker for short durations and was disengaged on completion of work; hence there is no termination of services and there was no need of compliance of provisions of Section 25 F of the Act in the present case.

10. I have given my thoughtful consideration to the arguments forwarded by the learned representatives and scanned entire evidence available on record in the light of the aforesaid rival contentions of the parties.

11. The workman has come up with the case that he had worked as daily wager with the bank from 17.06.1997 to 25.06.2002; but the management has terminated his services without following procedure specified under Section 25 F of the Industrial disputes Act, 1947 i.e. without serving any notice or paying notice pay in lieu thereof. He has also come up with the case that he worked and received payments in fictitious names at the instance of the management and other juniors are still working with the

management. The management has taken the stand that the services of the workman were availed as casual labour as and when required and his services came to an end on the completion of term/work; hence there was no termination at any point of time. It is also the case of the management that the onus to prove 240 days working is on the workman in which he has failed.

12. The workman in his cross-examination has stated that he himself prepared the vouchers regarding payment and made vouchers in other person's name at the directions of the management. It was also stated that he had prepared vouchers in the name of Mahesh, Baburam, Narayan and Manoj. On the other hand the management witness stated that no other casual worker apart from workman was working when he was removed. It was also stated that the workman worked on day to day basis, intermittently.

13. In Surenderanagar Panchayat and another v. Jethabhai Pitamberbhai 2005 (107) FLR 1145 (SC) Hon'ble Apex Court came to the conclusion that the workman could be entitled for the protection of section 25 – F of the Industrial Disputes Act, 1947 provided he is successful in establishing the fact that he had been in employment with the employer for a period of 240 days uninterruptedly. It was held by the Hon'ble Supreme Court that in such cases, the scope of the enquiry before the Labour Court was confined only to 12 months preceding the date of termination to decide the question of the continuous service for the purpose of section 25-F of the Industrial Disputes Act, 1947. Further, Hon'ble Apex Court has observed as under:

“The claimant, apart his oral evidence has not produced any proof in the form of receipt of salary or wages for 240 days or record of his appointment or engagement for that year to show that he has worked with the employer for 240 days to get the benefit under section 25-F of the Industrial Disputes Act. It is now well settled that it is for the claimant to lead evidence to show that he in fact worked for 240 days in a year preceding his termination.”

In this regard the workman has filed voluminous photo copy of the payment vouchers in support of his working details. In view of the law cited hereinabove, for resorting shelter of the provisions of the Section 25 of the Act to the workman, it has to be checked as to whether the workman worked for 240 days in a year preceding his date of alleged termination i.e. 25.06.2002. Thus, from the payment vouchers filed by the parties, the working details of the workman in the twelve months preceding his termination i.e. from 26.06.2001 to 25.06.2002 are as under:

S. No.	Month	Working days relied on by the workman	Working days relied on by the management
1.	June, 2001	05	Nil
2.	July, 2001	11	Nil

3. August, 2001	Nil	04
4. September, 2011	04	Nil
5. October, 2001	Nil	Nil
6. November, 2001	01	Nil
7. December, 2001	Nil	Nil
8. January, 2002	Nil	Nil
9. February, 2002	Nil	Nil
10. March, 2002	Nil	Nil
11. April, 2002	Nil	Nil
12. May, 2002	10	Nil
13. June, 2002	10	Nil

Total                          41                          04

14. Although the management has admitted the working details filed by the workman even then if it is taken to be true for the argument's sake then it comes out that the workman had worked only for 41 days in the preceding twelve months from the alleged date of termination i.e. 25.06.2002. Admittedly no appointment order was issued and the workman was engaged as daily wager by the management. In case of casual labour in order to get some relief the workman has to prove that he has worked continuously for 240 days uninterruptedly in a year preceding his termination, as observed by Hon'ble Supreme Court in Surenderanagar Panchayat and another v. Jethabhai Pitamberbhai 2005 (107) FLR 1145 (SC). In the present case, the initial burden of establishing the fact of continuous work for 240 days in preceding twelve months from the date of alleged termination i.e. 25.06.2002; but the workman has utterly failed to prove that he had worked for 240 days, as such, he could not discharge the burden.

15. The workman has also come up with the evidence that though he worked continuously with the management but he received payment in other names, which has been denied by the management. In the event of denial by the management it was incumbent upon the workman to call report of some handwriting expert to corroborate his pleadings that he received payment in some other fictitious names. Neither he disclosed the names in whose name he received payment nor has he adduced any such evidence. Therefore, the pleadings of the workman that he received payments in some fictitious names could not be relied on. The workman utterly failed to prove that he was engaged on a permanent post and continuously worked for 240 days preceding twelve months from the date of his alleged termination i.e. 25.06.2002 and that any workman was engaged after his termination and lastly, Brijendra who was junior to him was retained by the management.

16. In view of the facts and circumstances of the case and law cited hereinabove; I am of the opinion that the alleged action of the management in terminating the services of the workman w.e.f. 25.06.2002 was not unjustified.

17. Accordingly, the reference is adjudicated against the workman Devendera Prasad he is not entitled to any relief.

18. Award as above.

Dr. MANJU NIGAM, Presiding Officer

LUCKNOW

03rd July, 2014

नई दिल्ली, 12 अगस्त, 2014

**का.आ. 2264.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ सं. 92/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/08/2014 को प्राप्त हुआ था।

[सं. एल-12012/58/2001-आईआर (बी-I)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 12th August, 2014

**S.O. 2264.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 92/2001) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 11/08/2014.

[No. L-12012/58/2001-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT : Dr. MANJU NIGAM, Presiding Officer

#### I.D. No. 92/2001

Ref. No. L-12012/58/2001-IR(B-I) dated: 22.05.2001

#### BETWEEN

The Dy. General Secretary  
State Bank of India Staff Asson.  
C/o State Bank of India  
148, Civil Lines  
Bareilly  
(Espousing cause of Shri Ajay Agarwal)

#### AND

The Dy. General Manager  
State Bank of India  
Regional Office, Region – V  
Hotel Shikhar, Mahatma Gandhi Marg  
Almora

#### AWARD

1. By order No. L-12012/58/2001-IR(B-I) dated: 22.05.2001 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Dy. General Secretary, State Bank of India Staff Asson., C/o State Bank of India, 148, Civil Lines, Bareilly and the Dy. General Manager, State Bank of India, Regional Office, Region – V, Hotel Shikhar, Mahatma Gandhi Marg, Almora for adjudication.

2. The reference under adjudication is:

“WHETHER THE ISSUE OF COMPASSIONATE APPOINTMENT CAN BE TREATED AS INDUSTRIAL DISPUTE UNDER I.D.ACT, 1947? IF YES, WHETHER THE ACTION OF THE MANAGEMENT OF STATE BANK OF INDIA IN NOT GIVING A COMPASSIONATE APPOINTMENT TO SHRI AJAY AGARWAL S/O DECEASED EMPLOYEE SHRI B.S. AGARWAL W.E.F. 22.10.98 IS JUSTIFIED? IF NOT, WHAT RELIEF HE IS ENTITLED?”

3. The case of the workman's association is that one Shri B.S. Agarwal, Head Clerk of the State Bank of India, Champawat, Almora region was a member of the State Bank of India Staff Association, Bareilly Module, who died on 22.10.1998 and on his death the association passed a resolution to contest the case of compassionate appointment of the heir of deceased, Shri B.S. Agarwal. It is submitted by the association that on demise of Shri B.S. Agarwal his wife, Smt. Mithlesh Agarwal, moved an application to give compassionate appointment to her eldest son Shri Ajai Kumar Agarwal. The bank firstly, refused the compassionate appointment on the grounds of overage, and advised her to submit another application in favour of any other member of family. On making clarifications, the bank sought certificate of qualification in respect of Ajay Kumar Agarwal to consider his claim for compassionate appointment. It is also alleged by the association that the bank declined the request of Mrs. Mithlesh Agarwal for compassionate appointment of her son without giving any cogent reason. It is alleged by the association that denial of compassionate appointment to the dependent of deceased employee is violation of provisions contained in Chapter No. VII of (Volume II) of Hand Book on Staff Matters. Accordingly, the staff association has prayed that dependent of deceased Shri B.S. Agarwal viz. Ajay Agarwal be given compassionate appointment in terms of Bank's policy.

4. The management of the State Bank of India has filed its written statement; whereby it has denied the claim of the staff association with submission that the claimant, Ajay Kumar Agarwal is not a member of the staff association, therefore, the association has no locus standi

to raise the present industrial dispute. It has further submitted that Ajay Kumar Agarwal was never employed in the Bank, therefore, there exists no dispute under the provisions of Industrial Disputes Act, 1947. It is also submitted by the bank that the widow of late Shri B.S. Agarwal, viz. Mrs. Mithlesh Agarwal had not no financial crisis as compared to the terminal benefits being paid to her which amounted to Rs. 7,42,299.78. The management has submitted that the deceased acquired a house with the financial assistance of the bank and his widow is fetching about Rs. 5,000/- per month as rental; besides getting family pension amounting to Rs. 6865/- and interest of Rs. 7500/- per month on terminal benefits. It is submitted by the Bank that presently the widow of the deceased is getting sufficient sum in comparison to her liabilities i.e. two sons (major) and one daughter (major), therefore, not entitled for compassionate appointment. Accordingly, the management has prayed that the claim of the association be rejected being devoid of any merit.

5. The staff association has filed rejoinder; wherein apart from reiterating the averments already made in the statement of claim has not stated nothing new.

6. The parties filed documentary evidence in support of their claim. The workman examined himself whereas the management examined Shri K.K. Sahu, Dy. Manager in support of their respective stands. Parties availed the opportunity to cross-examine the witnesses of each other and forwarded oral arguments also.

7. Heard the authorized representative of the parties and perused entire evidence on record.

8. The authorized representative of the staff association has contended that there is scheme for compassionate appointment, contained in Chapter No. VII of Hand Book of Staff Matters and on demise of Shri B.S. Agarwal his wife, Smt. Mithlesh Kumar Agarwal submitted an application for appointment of her elder son viz. Ajay Agarwal on compassionate ground on 24.11.98. It is argued that the bank, firstly, declined the compassionate appointment on the ground of being overage and on submission of clarification by the applicant, the management again declined to give compassionate appointment to the applicant without stating any reason. It is also contended by the representative of the workman that the terminal benefits received by the workman are not sufficient to meet the liabilities; hence denial of compassionate appointment on grounds of sound financial situation is not just.

9. In rebuttal, the authorized representative has contended that the claimant was never employed by the Bank and is not a member of State Bank of India staff Association, as such, the staff association has got no locus standi to raise any industrial dispute. Also, there exist no industrial dispute between the bank and the claimant. It is argued by the representative of the bank

that the claimant, Ajay Kumar Agarwal was over age on the date of submitting application for compassionate appointment, as the required upper age in the clerical cadre was 26 years while the age of Ajay Agarwal was 27 years 10 months and 24 days, therefore, he was not entitled for compassionate appointment. Moreover, it is also submitted that the widow of Late Shri B.S. Agarwal received a sum of Rs. 7,4,299.78 towards terminal benefits and is in receipt of Rs. 6865/- per month as family pension and Bank's Welfare Scheme and interest of Rs. 7,500/- per month on terminal benefits and rental of Rs. 5000/-, therefore, the financial position of the claimant is sound, as such, no requirement for compassionate appointment.

10. I have scanned evidence relied on by the parties in light of rival submissions.

11. The Bank has come up with objection that since the claimant, Ajay Kumar Agarwal is neither an employee of the Bank nor a member of the Staff Association therefore, there exists no industrial dispute between the Bank and the claimant and also the Association has no locus standi to agitate the present matter.

Admittedly, the father of the claimant viz. Late Shri B.S. Agarwal was the employee of the Bank and was member of the Staff Association; and on his sudden demise, the Staff Association has moved a resolution to contest the case of the claimant regarding compassionate appointment. The bank while disputing the locus standi of the Association has not disputed, the resolution passed to extend legal assistance to the family of its ex-member, therefore, the action initiated by a recognized trade union consequent to a resolution passed by its members cannot be held to be invalid in absence of any material proof.

12. The first part of the schedule of reference carries a question as to whether the issue of compassionate appointment can be treated as Industrial Dispute under I.D. Act, 1947. The section 2 (k) of the Act defines the term 'industrial dispute' as under:

"(k) "industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;"

A bare perusal of the above definition makes it clear that any dispute or difference between the employers and workmen regarding non-employment is covered with the term industrial dispute. In the present case the dispute exists between the staff association regarding non-employment of the claimant i.e. not giving compassionate appointment to the claimant whose cause is being espoused by the staff association. Therefore, in my opinion the same comes with the purview of 'industrial

dispute' within the meaning of industrial dispute under the Industrial Disputes Act, 1947.

13. Now coming to the merits of the case, the management has taken plea that the claimant was over age on the date of application; hence not entitled for giving compassionate appointment. In this regard the enabling provisions of the scheme for appointment of dependents of deceased employees on compassionate grounds are as under:

#### "7.5 Method of Appointment

- (a) Request of the appointment under the scheme should be received by the Bank on the prescribed form as per Annexure – II within one year from the date of death of the employee. In case the dependent is a minor or does not possess suitable minimum qualification, his/her case can be considered within four years of the death of the employee, to enable him/her to so qualify in terms of age and/or qualification, provided that the dependent has made a request to the Bank within a year of the death of the employee.
- (b) .....
- (c) The minimum age limit in all classes will be 18 years. The upper age limit will be as per the practice from time to time for general candidates i.e. 26 years at present. Where no dependent of the dependent of the deceased employee within the prescribed age limit as available for employment, the Managing Director or Deputy Managing Director may in their discretion, relax the upper age limit up to a maximum of five years. However, in the case of widows of the deceased employee, there will be no upper age limit. In the case of dependent of Schedule Caste/Tribe employees, a relaxation of 5 years in the upper age limit, will be permissible."

From perusal of above guidelines, it is apparent that for seeking compassionate appointment; the beneficiary ought to make application within one year of the death of the bank employee. In the present case the employee viz. Shri B.S. Agarwal died on 22.10.1998 and the application for compassionate appointment was moved on 24.11.98, which was well within the time frame.

14. The conditions regarding upper age limit in the scheme for compassionate appointment, in case of dependent other than wife, is 26 years. The association, in its pleadings has mentioned that the management vide their letter dated 03.07.1999 refused the compassionate appointment to Ajay Kumar Agarwal due to overage and advised to submit another application for appointment on compassionate ground in favour of any other member of family. This finds support from the oral evidence of Ajay Agarwal wherein he has stated that his age on 24.11.98 was 27 years 10 months and 24 days and from the terms

given in scheme for compassionate appointment, the upper age limit was 26 years. Thus, the management rightly rejected the application of the Ajay Agarwal for compassionate appointment being over age; and their advice to Mrs. Mithlesh Agarwal to move another application in favour of some other member of the family was just in view of the terms of scheme of compassionate appointment. But Smt. Mithlesh Agarwal vide her application dated 14.07.1999 insisted upon to appoint her elder son viz, Ajay Agarwal. Mrs. Mithlesh Agarwal in her application dated 14.07.1999 has mentioned that the upper age limit is 28 instead of 26; but there is no material on record to show that the upper age limit is 28. Even from the documents relied upon by the association, paper No. 2/10 to 1/12, it is evident that the upper age limit was 26.

15. Therefore, in view of facts and circumstances of the case and discussions made hereinabove, I am of considered opinion that the issue of compassionate appointment is an industrial disputes within the terms of Industrial Disputes Act, 1947 and the action of the management of State Bank of India in not giving compassionate appointment to Shri Ajay Agarwal S/o deceased employee Shri B.S. Agarwal is not unjustified. Accordingly, Shri Ajay Agarwal is not entitled for any relief. The reference under adjudication is answered accordingly.

16. Award as above.

Dr. MANJU NIGAM, Presiding Officer

LUCKNOW

17th June, 2014

नई दिल्ली, 13 अगस्त, 2014

**का.आ. 2265.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 78/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2014 को प्राप्त हुआ था।

[सं. एल-22012/89/1996-आईआर (सी-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th August, 2014

**S.O. 2265.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 78/97) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of SECL and their workmen, received by the Central Government on 13/08/2014.

[No. L-22012/89/1996-IR (C-II)]

B. M. PATNAIK, Desk Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/78/97**

**PRESIDING OFFICER : SHRI R. B. PATLE**

The Secretary,  
MPKMS(HMS),  
Chirimiri Area,  
Post Handivadi,  
Distt. Surguja (MP) ....Workman/Union

**Versus**

Chief General Manager,  
Chirimiri Area of South Eastern Coalfields Ltd.,  
Post West Chirimiri,  
Distt. Surguja (MP) ....Management

**AWARD**

Passed on this 17th day of July 2014

1. As per letter dated 10-3-97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/89/96-IR(C-II). The dispute under reference relates to:

“Whether the claim of Shri Prem Sai, Shri Lal Sai, Shri Rup Sai and Shri Jholbahara, contract workers engaged as Mali at various places of Chirimiri Area to be regularized as mazdoors on the roll of General Manager, Chirimiri Area of SECL is legal and justified? If so, what other reliefs are these workmen entitled to?”

2. After receiving reference, notices were issued to the parties. Workman filed statement of claim at Page 2/1 to 2/7. The case of Ist party workman is that Prem Sai, Koal Bahara and Lal Sai were employed as permanent Gardner with IIInd party from 1989. They were looking after maintenance of Garden constituted in Coal Mines at Bunglow of officers of Chirimiri Area, WCL. Their attendance were marked day to day. Their working was supervised and controlled by Mines Manager. Salary was paid directly from Mines. Thus employer employee relationship was existing between IIInd party and those employees. That contractor M/s. Balakram was shown their employer. Under Contract Labour (Regulation and Abolition Act, 1970, the employing workers in the mines through contractor is prohibited. Those maalis raised their grievance on 28-8-94 for payment of wages as per NCWA. Thereafter their services were abruptly terminated without assigning reasons. Though the workman submits that they have completed more than 190 days service, they are entitled to be regularized in view of Section 25(B) of I.D.Act. They raised dispute about illegal termination of services.

The dispute has been referred. Their workman covered under Section 2(B) of I.D.Act. The maalis are covered in Category II of Item No. 21 of nomenclature, job description of coal employees. For engagement of contractor, the contractor is required a licence for engaging contract labours. M/s. Balakram was not holding any licence. That their services are covered by NCWA. They have completed 5 years unblemished service. They are terminated without notice. On such ground workman prays for their reinstatement with consequential benefits.

3. IIInd party filed Written Statement at Page 5/1 to 5/10. IIInd party raised preliminary objection that the dispute is highly belated. With reference to ratio held in various cases, it is submitted that the delayed reference is not tenable. The terms of reference are illegal. Appropriate Government has gone into disputed questions while making reference. Management has pleaded before Conciliation Officer that workmen were not engaged by the management. It is reiterated that there is no employer employee relationship. Workmen were not engaged by IIInd party. The reference is not tenable.

4. Management of SECL, Chirimiri Area never engaged Ist party workman directly or through contractor. Employees are covered by recommendation of Central Wage Board from 15-8-67. The service conditions and wage structure of the employees are revised from time to time. The persons temporarily engaged by management have no right. Under Mines Act, it is mandatory on management to make statutory record on B Register, attendance register in Form C, D. a person employed by management used to have enough proof with him about his employment. IIInd party denied all adverse contentions of workman reiterating that the workman were not engaged by him. Employer employee relationship is not in existence. It is denied that those workmen were working as maali. On such contentions, IIInd party prays for rejection of claim.

5. Rejoinder is filed by workman at page 9/1 to 9/4 reiterating their contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |  |  |
|--|--|
| (i) Whether the claim of Shri Prem<br>Sai, Shri Lal Sai, Shri Rup Sai and<br>Shri Jholbahara, contract workers<br>engaged as Mali at various places<br>of Chirimiri Area to be regularized<br>as mazdoors on the roll of General<br>Manager, Chirimiri Area of SECL is<br>legal and justified? | In Negative                                  |
| (ii) If not, what relief the workman is<br>entitled to?”   | Relief prayed<br>by workmen<br>are rejected. |

**REASONS**

7. Workmen are claiming regularization of their services. For detailed pleadings in statement of claim, workman failed to participate in reference. No evidence is adduced by workman to substantiate their claim. The evidence of workman is closed on 11-5-2011.

8. Management filed affidavit of evidence of Shri A.M. Sen supporting contentions in Written Statement of IIInd party reiterating that workmen were not engaged by IIInd party. The evidence of management's witness remained unchallenged. Counsel for Ist party workman declined to cross-examine management's witness for want of instructions. Thus the claim of workman is not supported by any evidence about their working in IIInd party. Evidence of management witness remained unchallenged. I find no reason to disbelieve evidence of management's witness. As claim of workman is not supported by any evidence, I record my finding in Point No.1 in Affirmative.

9. In the result, award is passed as under:-

- (1) The claim of Shri Prem Sai, Shri Lal Sai, Shri Rup Sai and Shri Jholbahara, contract workers engaged as Mali at various places of Chirimiri Area to be regularized as mazdoors on the roll of General Manager, Chirimiri Area of SECL is not legal and proper.
  - (2) Workmen are not entitled to relief claimed by them.
10. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 13 अगस्त, 2014

**का.आ. 2266.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 238/1992) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2014 को प्राप्त हुआ था।

[सं. एल-22012/203/1992-आईआर (सी-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th August, 2014

**S.O. 2266.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 238/1992) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of WCL and their workmen, received by the Central Government on 13/08/2014.

[No. L-22012/203/1992-IR (C-II)]

B. M. PATNAIK, Desk Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/238/92**

PRESIDING OFFICER : SHRI R.B.PATLE

Assistant Secretary,  
RKKMS(INTUC),  
PO Chandametta,  
Distt. Chhindwara

.....Workman/Union

**Versus**

General Manager,  
WCL, Pench Area,  
PO Parasia,  
Distt. Chhindwara (MP)

.....Management

**AWARD**

Passed on this 11th day of July 2014

1. As per letter dated 9-12-92 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/203/92-IR(C-II).The dispute under reference relates to:

“Whether the action of the General Manager, WCL Pench Area PO Parasia, Distt. Chhindwara in not regularizing and appointing S/Shri S.K.Gulzar S/o Mehtab, Ayub S/o Nayat, Vijai S/o Harchand, Abib S/o Gulzar and Mohd Tahir S/o Majeed as Canteen workers keeping in view of their continuous services rendered from December 1983 till date in the canteen of Barkui Regional Hospital, WCL, Pench Area PO Parasia, Distt. Chhindwara (MP) and not paying them the wages according to the NCWA-III is justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim at Page 5/1 to 5/11. Case of Ist party workman is that they are members of RKKMS registered Trade Union for welfare of labours engaged by IIInd party. That IIInd party is engaged in extracting coal. For welfare and for giving medical treatment to these workers, the management has provided various hospitals in the WCL, one of such hospital is Barkui Regional Hospital. That one Yusif Khan was awarded a contract for running canteen/cafeteria at Barikui Regional Hospital for the period from 16-12-82 to 15-12-83. The contract was granted by Chief Medical officer, Pench Area, Barkui Regional Hospital. The conditions included supply of the proposed items in the cafeteria. The rates of the items were fixed by the management of IIInd party. That Ist party workman S/Shri Gulzar, Ayub, Vijay, Abib and Mohd. Tahir were engaged by Yusuf Khan till the

period of contract was over. Thereafter all those workmen were appointed by Chief Medical officer to run canteen in the hospital. They were assured of absorption in service of WCL. However they are not absorbed in service of WCL. That as per provisions in Mines Act and rules framed thereunder, the statutory application of IIInd party provide and maintain canteens for use of its employees. Workman were employed in canteen claims to have acquired status of regular employee. Workman further submits that in entire area of WCL, canteen services are available for workmen. Canteen are either maintained by canteen committee or contractors. The contractors used to change but workers remained same. The contract period was over on 15-12-83 as per assurance given by Chief Medical officer. They continued to work at Burkui Regional hospital. That by usage and customary benefits, canteen facilities has become the condition of service of employees of management. That mining rules provide furniture and equipments and cleanliness, Rule 70 provides prices to be charged. Workman claimed that as they were working in Regional Hospital Burkui, they were not given benefit of regularizing in service. Union has referred to ratio held in various cases. Workman prays that IIInd party not regularizing their services or absorbing in service is illegal. He prays for regularization of employees as per the NCWA with seniority.

3. IIInd party filed Written Statement at Page 4/1 to 4/2. Claim of Ist party workman is denied. IIInd party submits that reference is illegal. Reference is made in respect of regularization of canteen workers. The reference is illegal. It amounts to question of fact. The dispute between parties was whether employees were directly employed by management of WCL, whether the canteen was run by management of WCL. The reference relating to regularization is compared to the facts in dispute. The question regarding relationship of employer employee and occupation of candidates by Shri Gulzar are involved in the matter. Contract of canteen was granted. While making reference, Govt. has exceeded its jurisdiction.

4. IIInd party further submits that the workmen were appointed following procedure. Shri Gulzar is above 60 years of age. He was ex-employee of IIInd party. On his age of superannuation, he cannot claim regularization of his service. The patients and their relatives were provided food items at reasonable rates as there was no other facility. Said job was given on contract for one year on trial basis. CMO of Burkui Hospital had invited tender for running canteen area in the hospital. The contract was awarded to one Yusuf Khan being the lowest tenderer. It is further submitted that even after expiry of contract, Yusuf Khan did not vacate the possession of the premises. He got employment in IIInd party. He was sponsored through Employment Exchange. All material contentions of workman that they acquire status of employee of IIInd party and be regularised is denied. Canteen was not connected

with mining operations. The running of hospital does not come with the prohibited category under Contract Labour Act. On such ground, IIInd party prays for rejection of claim.

5. Workmen/Union filed rejoinder at Page 7/1 to 7/3 reiterating their contentions in statement of claim. He further submits that contract was awarded for the period 16-12-82 to 15-12-83. It is denied that the contractor Yusuf Khan engaged S/Shri Gulzar Ayub, Vijaya Abib, Mohd Tahir as canteen workers. They have admitted that the space was vacated by the contractor. That Yusuf Khan got employment in the company having been sponsored through Employment Exchange. Yusuf Khan was still working. It is denied that claim of workmen is false and they are trying to enter the services of IIInd party through back door entry. All adverse contentions of management are denied.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |  |  |
|--|--|
| (i) Whether the action of the General Manager, WCL Pench Area PO Parasia, Distt. Chhindwara in not regularizing and appointing S/Shri S.K.Gulzar S/o Mehtab, Ayub S/o Nayat, Vijai S/o Harchand, Abib S/o Gulzar and Mohd Thir S/o Majeed as Canteen workers keeping in view of their continuous services rendered from December 1983 till date in the canteen of Barkui Regional Hospital, WCL, Pench Area PO Parasia, Distt. Chhindwara (MP) and not paying them the wages according to the NCWA-III is justified? | In Affirmative                         |
| (ii) If not, what relief the workman is entitled to?"  | Relief prayed by workmen are rejected. |

#### REASONS

7. Workmen are claiming absorption/ regularization of service in WCL. Identical affidavit of evidence are filed by Shri Gulzar & Sheikh Abid. Both the witnesses of Ist party have stated that there are 7-8 mines in Pench Area of WCL. When mines are covered by provisions of Mines Act, the facility of canteen was provided for the employees. Barkui Regional hospital was constructed in 1968. About 20,000 of employees were getting benefit of said hospital. 400 workers were working in Regional office, Burkui. Workmen were initially engaged by contractor Yusuf. After expiry of period of contract, workmen were appointed by Chief Medical officer of Burkui Hospital. They were assured of absorption in the same as WCL. They are paid 500 per

month whereas they are entitled to get payment as per NCWA. Even after completion of 10 years service, they are not regularised. Shri Gulzar in his cross examination says that he is of 60 years of age. Yusuf Khan is his son and Sheikh Abid is also my son. Yusuf Khan is in service of WCL, Sheikh Abid is not in service. That he did not work in WCL. He was working in hospital canteen. Canteen was given on contract to Yusuf Khan. Names of General Manager in WCL were sponsored through Employment Exchange. He claimed ignorance whether Committee is to make selection after expiry of contract period, Yusuf was working in WCL. His name was sponsored through Employment Exchange. He has retired from WCL. There are about 200 beds in the hospital. Canteen is at some distance from hospital. Tender of Yusuf Khan was lowest therefore contract of canteen was granted to him. In his further evidence in cross-examination shows the patients and their dependents were supplied food, milk from hospital canteen. No documents are produced by workman. That statutory canteen as provided under Mines Act. Evidence in cross-examination of Sheikh Abid is on the point that he did not make any effort for service in WCL. That he was working in canteen of WCL. Narayan Singh and Gautam were running the canteen of Burkui hospital. He was engaged in canteen by Yusuf Khan. The evidence on record does not show that contract was sham and bogus. There is absolutely no evidence that wages of workman were paid by WCL. In absence of such evidence, employee employee relationship between parties cannot be established.

8. The evidence of management's witness Shri Gulam Hussain is in nature of denial of claim of workman. Management witness in his cross-examination says there is provision under Mines Act for providing canteen facilities. Burkui hospital is not covered under Mines Act. He was unable to tell whether Burkui hospital was existing in 1968. Only labours and their relatives get treatment in Burkui Hospital. Salary of Doctors and Nurses, staff is paid by WCL. That the food items were provided to workman at Market value. The rates were fixed accordingly. Yusuf Khan is not examined as witness. Document Exhibit M-1 is tender notice issued by Chief Medical Officer, Burkui Hospital. After expiry of tender period on 15-12-83, how canteen was managed is not extended from evidence of workman. In absence of such evidence, the employer employee relationship between parties is not established. Therefore workman cannot be said employee of IIInd party.

9. Learned counsel for IIInd party Shri A.K.Shashi has relied on ratio held in

Case of Eagle Fashions versus Secretary Labour and others reported in 1999-I-LLJ-232. Their Lordship dealing with Section 10 held the terms should be clearly spelled out Factum of employment and termination itself in dispute. Reference cannot be made on presumptions. There is no application of mind.

In present case, terms of reference relates to regularization of Ist party workman. The order of reference is not challenged. The evidence on record is not sufficient to prove relationship of employer employee between the parties. The ratio held in the case cannot be applied to the present case.

In ratio relied in case of Municipal Committee, Tauru and Harpal Singh and another reported in 1999-I-LLJ-1038. Their Lordship of Apex Court held evidence tendered in Court should be based on claim statement. Courts will have to be alter on this. Inconsistent stand of party in Court will not bring any result.

As in pleading in Statement of claim, any inconsistency is not brought in notice, the ratio in above case cannot be applied to case at hand.

Copy of Award in Case No. R/8/97 is also produced. The facts of present case are not comparable as initially workmen were engaged by contractor Yusuf Khan. Whereas workman in above referred case was employee of the management of Bank. There was no contract involved in above said case. Evidence in present case is not sufficient to establish the employer employee relationship between parties. Therefore the ratio cannot be beneficially applied to case at hand.

Ratio held in case of Incharge Officer and another versus Shankar Shetty reported in 2011(1) MPLJ-11 on point of awarding compensation to meet ends of justice. In said case compensation 1 Lakh was awarded.

Ratio held in case of Hindustan Aeronautics Ltd. Versus Dan Bahadur Singh and others reported in 2007(6) Supreme court Cases 207 cannot be applied to present case at hand as facts are not available. Those cases are related to regularization, absorption.

10. Learned counsel for workman relies on ratio held in case of Case of Parimal Chandra Raha versus LIC of India reported in 1995-LAB.I.C-3064. Their Lordship dealing with point when canteen workers become employee of management held provisions of Factories Act is statutorily obligatory on the employer to provide and maintain canteen for the use of his employees, the canteen becomes a part of the establishment and therefore the workers employed in such canteen are employees of the management. The canteen become part of the establishment and the workers working in the canteen, the employees of the management. The obligation to provide a canteen has to be distinguished from the obligation to provide facilities to run canteen. The canteen run pursuant to the latter obligation, does not become a part of the establishment."

In present case, there is no evidence on record that the canteen run on contract was statutory canteen as per Mines Act. In absence of such evidence, workman cannot be said employees of IIInd party WCL.

In case between M.M.R. Khan versus Union of India reported in AIR 1990 Supreme Court 937. Their Lordship dealing with Railway canteen statutory and recognized employees held the employees in statutory candidates of Railway will have to be treated as Railway employees but not employees in non-statutory non-recognised Unions.

As evidence in present case doesnot show that the canteen run by management was statutory canteen established as per Mines Act, the ratio held in above case cannot be benefitially applied to the case at hand. For reasons discussed above, I record my finding in Point No.1 in Affirmative.

11. In the result, award is passed as under:-

(1) The action of the General Manager, WCL Pench Area PO Parasia, Distt. Chhindwara in not regularizing and appointing S/Shri S.K.Gulzar S/o Mehtab, Ayub S/o Nayat, Vijai S/o Harchand, Abib S/o Gulzar and Mohd Thir S/o Majeed as Canteen workers keeping in view of their continuous services rendered from December 1983 till date in the canteen of Barkui Regional Hospital, WCL, Pench Area PO Parasia, Distt. Chhindwara (MP) and not paying them the wages according to the NCWA-III is proper.

(2) Relief prayed by union is rejected.

12. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

R. B. PATLE, Presiding Officer

नई दिल्ली, 13 अगस्त, 2014

**का.आ. 2267.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी. आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 172/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2014 को प्राप्त हुआ था।

[सं. एल-22012/354/2000-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th August, 2014

**S.O. 2267.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 172/2003) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of FCI and their workmen, received by the Central Government on 13/08/2014.

[No. L-22012/354/2000-IR (CM-II)]

B. M. PATNAIK, Desk Officer

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/172/2003

Presiding Officer : SHRI R.B.PATLE

Shri Rammurthi Mishra,  
Chairman,  
Bhartiya Khadya Nigam Mazdoor Congress (INTUC),  
29, Vijaynagar (Chhapar),  
Rampur, Distt. Jabalpur .....Workman/Union

#### Versus

Distt. Manager,  
Food Corporation of India,  
Distt. Office, Rite Town,  
Jabalpur

Managing Director,  
Food Corporation of India  
Barakhamba Lane,  
New Delhi.

Sr. Regional Manager,  
Food Corporation of India,  
Regional office, Chetak Complex,  
Maharanapratap Nagar,  
Habibganj, Bhopal (MP) .....Management

#### AWARD

Passed on this 21st day of July 2014

1. As per letter dated 22-10-03 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/354/2000-IR(CM-II). The dispute under reference relates to:

“क्या श्रम संघ, भारतीय खाद्य निगम मजदूर कांग्रेस (इंटक) के द्वारा प्रबंधन भारतीय खाद्य निगम, जिला प्रबंधक द्वारा श्री शंकरलाल यादव एवं 15 अन्य कर्मकारों के 18.05.1996 को अन्यत्र स्थानांतरित करने एवं पुनः 21.12.96 को स्थानांतरण रद्द करने के बीच की अवधि का वेतन मजदूरों की मांग न्यायोचित है ? यदि हां, तो संबंधित कर्मकार किस अनुतोष का हकदार है ?”

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim at page 4/1 to 4/19. Claim of all those 16 workmen pertains to the wages for the period 18-5-96 to 21-12-96. The order of their transfer was issued and order of transfer was cancelled and they were allowed to join duties at Jabalpur depot. Very exhaustive pleadings are submitted by workmen that workmen No. 2 to 16 working as mazdoor at FCI Depot, Raipur, Distt. Jabalpur. They were working in

said depot during 1967 to 1973. Ist party No.1 is office bearer of INTUC Union. That from 1989 onwards, appointing handling and transport contractors was discontinued, mate system was introduced. From 1-11-1990, 69 FCI depots from country were departmentalized. It is alleged after discussion with rival Union G.S.Jaina Group, FCI issued transfer order dated 24-11-95 whereby 37 mazdoor from Jabalpur were transferred at FCI depot. Labours refused to report the places of transfer. As the dispute pertains to recovery of wages for period given above, only the facts are briefly narrated on other incidental matters. Transfer order was challenged by labours filing Writ Petition 3951/95. It is submitted that the Hon'ble High Court was pleased to direct IIInd party to departmentalize petitioners in the services of the corporation and the only the petitioner's services become transferable. It is submitted that in mate system, mazdoors working under mate were paid wages by mate. The mazdoors were not treated regular employees of the corporation. Appointment orders were not issued in favour of the applicants. In Para-15 , argument advanced by counsel for IIInd party is narrated. That settlement arrived between management and representative of workers Union with regard to departmentalization of mazdoor has been recommended to Jabalpur Division. The petitioners have been departmentalized and most of the benefits available to the directly recruited employees of the management are not available to the mate labours. That Hon'ble High Court dismissed Writ petition No. 3951/95 on 17-5-96. Workman was served legal notice on 22-5-96 requesting implementation of order dated 17-5-96. In above writ petition with respect to commitment made by IIInd party for departmentalization of services of corporation. Said legal notice granted relief to the workmen by issue orders of appointment regularizing/departmentalizing the workmen, issue posting orders in favour of the applicants as regular employees of FCI, grant regular pay scale, fixation of pay w.e.f. from date of issue of notification dated 1-11-90. It is submitted that after orders passed in 3951/95, the Ist party workmen were not allowed to enter the premises. That IIInd party complied with the order passed by the High Court.

3. The Ist party workman filed contempt petition 159/96. After hearing the contempt petition was disposed off on 10-7-96. Some breathing time should have been allowed to the respondents to comply with order dated 17-5-96. The contempt petition was fixed on 5-6-96. The contempt petition was disposed with direction to the respondents to comply with the order and the commitment before the Hon'ble High Court. Workman issued legal notice on 17-7-96, 28-7-96. After expiry of one month's period narrated by Hon'ble High Court, IIInd party did not pass any order in pursuance of the order passed by Hon'ble High Court. IIInd party issued memo dated 6-8-96 allowing benefits of direct payment system to the workman from 1-1-1994. It

was deliberately done to circulate the order dated 17-3-96 by Hon'ble High Court. It is further submitted that workmen were not allowed to discharge their duties. They were made to stand outside the gate. The workmen were not paid their salary from 18-5-96. Workman filed contempt petition 246 of 1996. Workman have also narrated about filing MCC No. 591/96, 589/96 for review of order dated 17-5-96 in WP No. 3951/95 and 589/96 by order dated 18-10-96. In contempt petition 264/96 Hon'ble High Court imposed fine of Rs. 2000 against IIInd party. MCC 589/96 was dismissed with cost of Rs. 2000. Ist party workman served legal notice on 25-10-96 after judgment in contempt Petition 264/96. Divisional Bench of High Court took up both petitions and miscellaneous appeal. The appeals give with proposal for cancelling transfer order dated 19-10-95. Workman submitted to formulate uniformity of transfer keeping in view the principles of last come first go.

4. IIInd party cancelled transfer order on 18-12-96. Workmen were allowed to resume duties. Repeated round of litigations and orders passed in those orders are reiterated by Ist party workman and it is emphasized that because of transfer order, they were prevented from attending their duties. Transfer order is quashed. Therefore they are entitled to wages required for the period 18-5-96 to 21-12-96 from IIInd party.

5. IIInd party filed Written Statement at Page 7/1 to 7/17. The round of litigation between parties is not disputed. IIInd party submits that workmen are interpreting the order passed by Hon'ble High Court in Writ petition No. 3951/95 dated 17-5-96. IIInd party management has also pleaded about the corporation established under act of 1965. Handling and transport contractors were engaged. The contractors were engaging their labours. From 1989, mate system was introduced. Payment was made therefore mate from 1994 direct payment system are introduced. However it is emphasized that there was no employer employee relationship. The filing of contempt petition No. 159/96 and order passed therein. In Petition 246 of 1996, order passed therein on 18-10-96 are ot disputed. Filing of miscellaneous application of 1342/95 is not disputed. IIInd party has denied material contentions of workman. When direct payment system was introduced from 1-1-1994, there was no employer employee relationship. However Regional Manager had power to transfer those workers as work was not available at Jabalpur depot. 37 workers were transferred working in Gang 1,2,3,9. The counsel for workman admitted that they were not workers nor members of service cadre of FCI. There were no contract of service in view of admission. Writ petition was dismissed on 17-5-96. It is further submitted that the submissions made by Shri S.C.Jain counsel for FCI before High Court in Writ petition No. 3951/95 . The submissions made by Shri Jain were reviewed by substituting, departmentalization means workers under direct payment system. That the claim of workman is beyond scope of the agreement dated 1-1-1994.

Workmen have put remedy under Section 15 of P.W.Act. workmen are not entitled to wages claimed by them on principle of no work, no pay. IIInd party prayed for rejection of his claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |  |  |
|--|--|
| (i) "Whether the demand of workers Union in FCI(INTUC) for wages of Shankarlal and 15 other workers for the period 18-5-96 till 21-12-96 as transferred and said order was cancelled is justified? | Demand for wages for workmen 2 to 16 is justified. |
| (ii) If not, what relief the workman is entitled to?"  | As per final order.                                |

### **REASONS**

7. In support of their claim, Ist party workman filed identical affidavit of evidence of Shri Ram Singh, Radhesham. In their affidavit both of them have narrated about changing methods for engaging labours at different types, engaging contract labours, mate system, direct payment system for handling and transport work. They have also referred to the submissions made by Shri H.C.Jain Advocate for IIInd party in Application No. 3951/95. Legal notice was served by workmen praying to issue posting orders of workman as regular employee of FCI and fixing their scale. The question of departmentalization or fixation of pay of those workmen is not the point involved for decision in present reference. Present reference is related to limited question whether after transfer order was cancelled, workmen are entitled to wages for the period of issuing transfer order till they were allowed on duty. Shri Ram Singh in his cross-examination says that he was not among the workers transferred. He is supporting cause of other workers being office bearer of Union. Radhesham in his cross-examination says alongwith him, mazdoor Union were transferred. He was transferred thrice remaining workers in the gang. He corrected that he was transferred twice. IIInd party he was transferred alongwith gang members to Mahasamund. They had not joined at places of their transfer. Therefore during 18-5-96 to 21-12-96. The course of litigation of orders passed by Hon'ble High Court in Writ Petition, contempt Petition, Miscellaneous application are not disputed.

8. Management's witness Shri Mrinal Singh also stated exhaustive facts about different modes of engaging labour. He denied employer employee relationship. He has also referred to the orders passed in Writ petition, contempt petition. The copies of orders are produced on record. In his cross-examination he says Sr. Regional Manager has power to transfer those labours. Copy of order in Writ petition No. 3951/95 produced at Exhibit W-1 refers. Para-6 of the order refers to the submissions made by Shri S.C.Jain

counsel for Respondent No.1 that on the other hand, it is contented that settlement arrived at between the management and representative of workers Union with regard to departmentalization of workers has been extended to Jabalpur depot and petitioners have been departmentalized and most of the benefits available to the directly recruited employees of the management which are not available to the mate labours have been made admissible to the workers of Jabalpur depot. In para-8, their Lordship discussed since the petitioners have been departmentalised and facilities available to the directly recruited employees have been extended to the departmentalized mazdoors as per terms of settlement between management and workers Union cannot be allowed to resist their transfer when there is no sufficient work for them at Jabalpur. With such clarification, the writ petition was dismissed without cost. Exhibit W-1A is copy of order passed in contempt Petition 159/96. It was observed that respondents are directed to honour their commitment made in Court for departmentalizing the petitioners of Jabalpur Depot and extend the benefits of departmentalised mazdoors within a period of one month as per terms of settlement or the order. Exhibit 7-1(B) is copy of order passed in contempt petition 264/95. IIInd party was convicted and sentenced to pay fine of Rs. 2000 Exhibit W-1(C) is copy of order passed in MCC 589/96 dismissing proceeding with cost Rs. 2000. Exhibit W-2 is copy of legal notice sent by workers. Exhibit W-2A is copy of legal notice dated 28-7-96 sent by workmen. Exhibit W-2(b) is also copy of legal notice. Exhibit W-3 is order of posting dated 6-8-96 in pursuance of order passed in Writ petition 3951/91. Exhibit W-7 is copy of notification. W-8 is copy of facts of posting order. Exhibit W-10,11 re copies of contempt petition and reply to the legal notice. W-12 is copy of order in Writ petition No. 3708. Identical set of documents are also filed by IIInd party.

9. Written notes of arguments are submitted by IIInd party. Evidence of parties clearly demonstrate that the transfer order issued by IIInd party was cancelled and the workmen were allowed to join duty. After receiving transfer orders till the workmen were allowed to join their duty, workmen were not allowed to enter depot premises. They were prevented from discharging duty. The order of transfer of the workmen No. 2 to 16 is cancelled after the same was challenged by the workman. For one or the other reason, the transfer order seems to be implemented and workmen had not accepted the order of their transfer to other places. When the order of transfer has been cancelled, the principles of no work no pay cannot be applied in such case. Because of the order of transfer which was subsequently cancelled, the workmen were unable to attend their duties. It was consequence of the order of transfer issued by IIInd party therefore IIInd party is bound to pay wages of workmen 2 to 16 for the period 18-5-96 to 21-12-96. For above reasons, I record my finding in Point No.1.

10. In the result, award is passed as under:-
- (1) Demand of workmen is justified with respect to the workmen 2 to 16.
  - (2) IIInd party is directed to pay wages to workmen 2 to 16 from 18-5-96 to 21-12-96.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 13 अगस्त, 2014

**का.आ. 2268.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 149/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2014 को प्राप्त हुआ था।

[सं. एल-22012/219/1997-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th August, 2014

**S.O. 2268.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 149/98) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of WCL and their workmen, received by the Central Government on 13/08/2014.

[No. L-22012/219/1997-IR (CM-II)]

B. M. PATNAIK, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/149/98

Presiding Officer : SHRI R.B.PATLE

Shri Peerkhan,  
Somnath Ward No. 24, Rajura,  
Post & Tehsil Rajura,  
Distt. Chandrapur,  
Chandrapur (MS) .....Workman

#### Versus

Sub Area Manager,  
WCL. Sasti Sub Area, PO Sasti,  
Tehsil Rajura,  
Distt. Chandrapur (MS) .....Management

#### AWARD

Passed on this 17th day of July, 2014

1. As per letter dated 22-7-1998 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/219/97/IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of Sub Area Manager, M/s. WCL, Sasti, Distt. Chandrapur in not reinstating a contract worker namely Shri Peer Khan S/o Shri Kedarkhan Pathan is legal, proper and justified? If not, to what relief is the workman entitled and from which date? What other directions are necessary in the matter?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/5. Case of workman is that IIInd party No.1 had given a contract of the canteen and plantation in the building compound at Sasti Open Cast Mines, Sasti, Tehsil Rajura, Distt. Chandrapur to IIInd party No.2 in the year 1993-94. IIInd party No.3 was given contract for the same during the subsequent period. IIInd party No.3 is running the canteen. Workman was engaged by contractor Shri Madhukar H.Nagrale. He was paid fixed wages Rs.56.50 per day. Workman was given job of canteen boy and maintenance plantation near the canteen. That about 50 plants were required to be maintained by him. The work of cleaning, sweeping the canteen as well as cleaning the utensils etc. was being done by Smt. Madanubai Martu and Savitribai who were not contractor's employees. Workman submits that he was working more than 240 days from 13-5-93 to 20-7-94. His services were terminated from 21-7-94 by oral order. He was not paid compensation, notice pay. Therefore termination of his service is illegal. That he is unemployed after termination of his service. He prays for his reinstatement with consequential benefits.

3. IIInd party filed Written Statement at Page 9/1 to 9/6. IIInd party denied claim of workman contending that workman was not engaged by the management of WCL, Sasti Open cast Mines. There is no employer employee relationship. There was no question of termination of his service. The reference is not legal. Workman is not entitled for reinstatement. IIInd party submits that recruitment in public sector is made following recruitment rules calling names from Employment Exchange. Committee constituted for recruitment examines eligibility of candidates. Successful candidates are selected. It is reiterated that the workman was not engaged by contractor. Work was awarded to contractor as welfare facility. Working is not of permanent nature. The contractor was directed to make labour payment as per Minimum Wages Act. The wages were paid by contractor. Work was also supervised by

contractor. Tender notice was issued for signing contract. Workman not completed 240 days service. On such ground, IIInd party prays for rejection of claim.

4. Workman filed rejoinder at Pages 10/1 to 10/2 reiterating his contention in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |  |  |
|--|--|
| (i) "Whether the action of the management of Sub Area Manager, M/s. WCL, Sasti, Distt. Chandrapur in not reinstating a contract worker namely Shri Peer Khan S/o Shri Kedarkhan Pathan is legal and justified? | In Affirmative                         |
| (ii) If not, what relief the workman is entitled to?"  | Workman is not entitled to any relief. |

### REASONS

6. Workman is challenging termination of his service for non-compliance of Section 25-F. He was not paid retrenchment compensation. Notice was not given to him. That he was engaged by contractor IIInd party No.2, after completion of contract he was working with IIInd party No.3 with consent of IIInd party No.1.

7. Affidavit of evidence is filed by workman. It is stated that he has completed 240 days service. The contractor Shri Madhukar H.Nagrale had issued a experience certificate. That workman used to prepare tea and Chiwda (Namkeen) and run the canteen as well as to look after the plantation in the canteen area. In his cross-examination workman says Shri Madhukar H.Nagrale was given contract of plantation. That Shri Raman Tiwari was running canteen. Period of contract of Madhukar was from 13-5-93 to 26-12-93 about period of 7 months. Workman claims ignorance when contract was given to Raman Tiwari. He further says that Madhukar H.Nagrale had engaged him in work. He was paying his wages. Shri Sunil Canteen Manager was giving him instruction of work. Shri Nagrale continued him on work during his contract period. Thereafter he continued to work. He further says that contractor had provided him work. He was working as labour. After contract period of Shri Madhukar H.Nagrale ended, he was not provided job. Contractor Shri Madhukar H.Nagrale is not party to the proceeding. Workman has not produced any document about working with Shri Madhukar H.Nagrale. Entire evidence of workman shows that he was engaged by contractors and working under contractor. There is no evidence that the workman was engaged by those contractors with prior approval of WCL.

8. IIInd party filed affidavit of witness Shri Ram Bihari Mishra, Manager. He denied working of workman as employee of WCL. Management's witness says that management of WCL awarded contract to Shri Madhukar H.Nagrale for execution of work, maintenance of plants at Canteen Campus for the year 1993-94. He denies that Shri Madhukar H.Nagrale was running the canteen. He further says that the canteen is statutory requirement by WCL directly. Employees working in canteen are regular employees as per NCWA. In his cross-examination, management's witness says he was appointed at Sasti project in 1992. He worked in August 1998. The original work order is produced on record marked Exhibit M-1. The contract period of Shri Madhukar H.Nagrale is shown six months for maintenance of plants at canteen campus. The approximate expenditure is shown Rs.10,046. Thus evidence of management's witness is corroborated by document Exhibit M-1. The evidence of Ist party workman is not supported by any document. In written notes of argument submitted by learned counsel for workman, it is emphasized that the contractor engaged workman on 13-5-93. Workman was preparing snacks, tea. Workman was working till 20-7-94 and he completed more than 240 days. However the document Exhibit M-1 Work Order shows contract of Shri Madhukar H.Nagrale was only for six months for maintenance of canteen premises. The evidence of workman about completing more than 240 days working is not supported by documents. There is no evidence about contract given to Shri Madhukar H.Nagrale was bogus and sham. IIInd party No.1 was co-employee. In absence of such evidence, it is not proved that IIInd party No.1 WCL engaged workman or terminated him from service. Therefore I record my finding in Point No.1 in Affirmative.

9. In the result, award is passed as under:-

- (1) Workman was not engaged nor terminated by WCL IIInd party No.1. Termination of workman is not in violation of Section 25-F of I.D. Act.
- (2) Workman is not entitled to relief prayed by him.

R. B. PATLE, Presiding Officer

नई दिल्ली, 13 अगस्त, 2014

**का.आ. 2269.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी. आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 72/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2014 को प्राप्त हुआ था।**

[सं. एल-22012/141/2005-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th August, 2014

**S.O. 2269.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 72/2006) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the management of Food Corporation of India and their workmen, received by the Central Government on 13/08/2014.

[No. L-22012/141/2005-IR (CM-II)]

B. M. PATNAIK, Desk Officer

**विषय:**

दृष्टिः । जक्ज वक्स लक्ष्मी वर्षे को. , ओ जे उ. क्य. ;  
ति; ऊ ल-ह-विद्व-वि- इज्ज. का- 72@2006

हक्ज रिक्म;] इल्हुव्वेक्ज्ह

ज्ञांज्ञसु उा- एन-22012/141/2005-आईआर(सीएम-II)  
फ्रुक्त 27/07/2006

Shri Mangilal Medhwal  
S/o Shri Daulaji Medhwal,  
R/o Gholi Magri, Post-Ghasa, Tehsil-Mawli,  
Distt.- Udaipur (Rajasthan)

**V/s.**

1. The District Manager,  
Food Corporation of India,  
Udaipur (Rajasthan)

इक्ज्ह द्वारा ज्ञांज्ञ फ्रुक्त विवरणः

विद्वन्न द्वारा ज्ञांज्ञ लिखित विवरणः

**% ज्ञांज्ञ%**

फ्रुक्त 27-06-2014

1. दृष्टिः । जक्ज वक्स लक्ष्मी वर्षे को. 1947 चं एक्ज्ज 10 मिथ्येक्ज्ज 1 [क. ४-(३)] द्वारा फ्रुक्त 27-07-2006 द्वारा ज्ञांज्ञसु लिखित विवरणः

2. “Whether the action of the management of Food Corporation of India, Udaipur in terminating the services of Shri Mangilal Medhwal w.e.f. 3.4.2002 vide their order dated 10-9-2002, is legal and justified ? If not, to what relief the workman is entitled to?”

3. विवरणः 31-1-2007 द्वारा ज्ञांज्ञ लिखित विवरणः इक्ज्ज द्वारा ज्ञांज्ञ लिखित विवरणः

4. इक्ज्ज द्वारा ज्ञांज्ञ लिखित विवरणः

5. फ्रुक्त 14-8-2002 द्वारा ज्ञांज्ञ लिखित विवरणः

6. विवरणः ग्रन्ति द्वारा ज्ञांज्ञ लिखित विवरणः

7. विवरणः ग्रन्ति द्वारा ज्ञांज्ञ लिखित विवरणः

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नई दिल्ली, 13 अगस्त, 2014

**का.आ. 2270.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.आई.एम. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम च्यालेज, लखनऊ के पंचाट (संदर्भ संख्या 15/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2014 को प्राप्त हुआ था।

[सं. एल-42012/79/2004-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th August, 2014

**S.O. 2270.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Indian Institute of Management and their workmen, received by the Central Government on 13/08/2014.

[No. L-42012/79/2004-IR (CM-II)]

B. M. PATNAIK, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT : Dr. MANJU NIGAM, Presiding Officer

#### I.D. No 15/2005

Ref. No. L-42012/79/2004-IR(CM-II) dated 31.03.2005

#### BETWEEN:

Sh. Rakesh S/o Sh. Kesan  
Village- Mubarakpur  
Dist. Lucknow

#### AND

The Director  
Indian Institute of Management  
Prabandh Nagar, Off. Sitapur Road,  
Lucknow

#### AWARD

- By order No. L-42012/79/2004-IR(CM-II) dated 31.03.2005, the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sh. Rakesh S/o Sh. Kesan, Mubarakpur, Dist. Lucknow and the Director, Indian Institute of Management, Prabandh Nagar, Off. Sitapur Road, Lucknow for adjudication to this CGIT-cum-Labour Court, Lucknow.

2. The reference under adjudication is:

“KYA PRABANDHAN BHARTIYA PRABANDH SANSTHAN, LUCKNOW KE DWARA SHRI RAKESH PURTA SHRI SRI KESAN CASUAL MALLI KO DINANK 08.08.1993 KO NAUKARI SEY NIKLA JANA NAYOCHIT TATHA NAYASANGTAH HAI? YADI NAHI TO KARMKAR KIS ANUTOSH KO PANE KA ADHIKARI HA?

3. The case of the workman, Shri Rakesh, in brief, is that he was appointed as casual Mali and had worked continuously without any break with the employers till 08.08.1993. He was getting Rs.1550/- per month as salary at the time of termination of his services. A first information report was lodged on 08.08.1993 under Section 147/148/ 307/189/332/324 in Madiyaon police station, Lucknow and workman was taken into judicial custody and due to the aforesaid first information report the employers stopped to take work from the workman. It is also stated that due to the aforesaid first information report a criminal case was registered and a trial was commenced in the Court of Additional Session Judge, Court No.5 and after conducting necessary proceedings the workman was acquitted by Additional Session Judge, Court No. 5, Lucknow. After acquittal the workman approached the employers and requested to reinstate in service at the earliest and he was directed by the employers to come for duty after finalization of the criminal case. The workman stated that employers stopped to take the work from the workman without any reason so it amounts to termination of the services of the workman. The workman alleged management violate the provisions of Section 25-F of the I.D. Act.1947. The workman prayed that the Tribunal may be pleased to declare that the termination of the services of the workman is neither legal nor justified and he is entitled to get reinstatement in service with all consequential benefits including cost and expenses.

4. The management filed written statement stating therein that workman was in judicial custody being involved in a criminal case. As such there is no question of termination. The management alleged that workman has abandoned the work on account of being involved in a criminal case and not a termination of service by the management the allegation of illegal termination of services and violation of the provisions of section 25-F of the I.D. Act.1947 is false and misconceived. The management stated that after a gap of ten years, suddenly the workman has moved an application claiming illegal termination of his services by the IIM, Lucknow. The workman making vague and false allegations without any supporting evidence. The workman has no case and cannot claim any relief after a gap of ten years since abandoning work. The management stated that the claim being raised by the

workman being misconceived without evidence, against law and being untenable, devoid of merits, is liable to be rejected with costs.

5. The workman filed rejoinder and reiterated as stated in claim statement.

6. The workman was cross examined. In his cross-examination, the workman stated that he was appointed in 1993 on salary of Rs.1750/- On 08.08.1993 the workman involved in a criminal case and was sent to the judicial custody. After registration of the case a trial was commenced in the Court of Additional Session Judge, Court No.5; and after conducting necessary proceedings the workman was acquitted by Additional Session Judge, Court No.5, Lucknow. After acquittal the workman approached the employers and requested to reinstate him in the service as earlier; but the management did not allow him to join the duties and was directed by the employers to come for duty after finalization of the criminal case.

7. The management of the IIM, Lucknow examined Shri P.K. Rai, Administrative who stated that the workman was involved in a criminal case and he himself stopped coming to work since 16.08.1993. It was further stated that no oral/written orders were passed by the IIM, Lucknow for termination of the services of the workman. The workman himself stopped from coming to the work. His allegations regarding illegal termination of services and violation of the provisions of the Section 25 F of the I.D. Act.1947 are false and misconceived and deserve to be rejected. It was also stated that the workman in fact worked upto 16.08.93 and then stopped coming to the work, being involved in a criminal case; and as such; it is wrong to say that employers stopped taking work from him without any reason. After a gap of ten years' the workman moved an application claiming illegal termination of his services by the IIM, Lucknow, making false allegations without supportive evidence. Shri P.K. Rai, Administrative Officer, IIM, Lucknow also cross-examined.

8. The management contended that 16.08.93 was the last day when the workman came to IIM, he has failed to lead any evidence about his whereabouts between 16.8.93 to 05.03.2003, the date when turned back after ten years. The workman stated in his cross-examination that he worked up to 16.8.93 and did not come thereafter. The workman also stated in his cross-examination that he never sent any representation between 16.8.93 to 05.03.2003; and workman was not able to prove that he had sent any representation to IIM, Lucknow for reinstatement between 16.8.93 to 05.03.2003.

9. The management of the IIM, Lucknow has taken plea that there is no question of termination of his services by the employers and the allegation of illegal termination of services and violation of the provisions of I.D.Act.1947 are false and misconceived.

10. The management has also relied on Dr. Lakhte Mustaffa Kazmi vs State of U.P. (2003) 2 UPLBEC 1351 wherein Hon'ble Allahabad High Court has considered the entire law relating to abandonment of service and its consequence and has chronologically summarized the entire law on this point through various judgments of the Hon'ble Supreme Court. A bare perusal of the various judgments from para 22 to 29 shows that where there is abandonment of employment there is no question of any interference.

11. I have scanned the rival pleading so the parties and entire evidence available on record.

12. The case of the workman is that he was appointed in August 1989 and worked continuously till 08.08.1993. When the employer stopped taking work from him on account of being taken into judicial custody in a criminal case as a result of FIR lodged u/s 147/148/307/184/332 and 324 of IPC in Police Station - Madiyaon, Distt. Lucknow. Due to the aforesaid FIR trial was commenced before V Additional Distt of Sessions Judge which concluded only on 05.03.2003. When the order of acquittal was passed by the learned Sessions Judge, acquitting the workman, in the aforesaid criminal case, he approached the employers and requested them to reinstate him but no heed was paid towards his request. Besides, it was also pleaded that there is utter violation of the provision of Section 25 F of Industrial Disputes Act.1947 as he has not been given any notice nor notice pay in lieu thereof nor he was paid any retrenchment compensation in accordance with law.

13. Contrary to this, the management has specifically denied that it stopped taking work from the workman due to FIR. In fact the opposite party management had no information of FIR or about the commencement of any trial against the workman. It was specifically pleaded that it was not a case of termination of services by the management but in fact it was a case of abandonment of service on account of the workman being involved in a criminal case hence there is no question of illegal termination of services and violation of Section 25F of the I.D. Act, 1947.

14. The reference before this tribunal for adjudication whether the termination of the workman is legal and justified?

15. Admittedly, the workman was involved in the criminal case and was in judicial custody since 08.08.1993 for 15 days; and was acquitted on 05.03.2003 by the Vth Additional Sessions Judge, Lucknow of the charges u/s 147/148/307/184/332 and 324 of IPC in Police Station – Madiyaon, Distt. Lucknow. It is also in the record that he has been released on bail after 15 days.

16. The workman in the examination in chief has specifically stated that on 08.08.1993 he went to jail and

the trial continued upto 2003 (It is also admitted by him (Maine koi suchana apne supervisor aur IIM ko nahi bheji).

17. It is the case of workman that he approached to the employer only after 05.03.2003 i.e. after 10 years. When he was released on bail he did not report for work at IIM. It is his own admission that after the acquittal i.e. 05.03.2003, he approached to the employers and requested for reinstatement. In this way the workman remained absent from duty, as per his own statement, since 08.08.1993 to 05.03.2003 continuously for a period about 10 years without giving any information. During this period he did not move any representation, nor even tried to join the duties or to inform the management. Hence, it is very strange that even after being released on bail, the workman did not go to the duty. In the case of Ammapet Handloom Weavers Cooperative Production and Sales Society Ltd. v. Kadalaimuthu 2000 85 FLR 807 SC Hon'ble Apex Court has observed that it is not incumbent on the employer to wait indefinitely for the employee to turn up. The society is under no obligation to wait indefinitely.

In another case of Dr. Lakhte Mustaffa Kazmi vs State of U.P. (2003) 2 UPLBEC 1351 it was observed that when absence is for a very long period it may amount to voluntary abandonment of service and in that eventuality, the bond of service come to an end automatically without requiring any order to be passed by the employer.

Also, in Dinesh Kumar Singh Vs Presiding Officer, Labour Court, Agra 2005 ALJ 732, Hon'ble Allahabad High Court has held that since the petitioner himself abandoned his services and had never been terminated, as such there was no retrenchment or termination of the services of the petitioner; and as such, he is not entitled to the benefits of Section 25F I.D. Act.1947. Admittedly, the workman was working on daily wages; and as such, he had no right to the post and since he himself abandoned employment being imprisoned, his employment came to an end.

18. In the instant case the workman even after release on bail has not reported to duties and continuously remained absent from work for a long period of 10 years. As per his own statement he remained absent since 08.08.1993 or 16.08.1993, the last date of work till 05.03.2003. The workman has not reported on duties nor moved any representation nor even gave any information to the employer. There is nothing on the record to show that he even informed to the management or even reported on duty and he was obstructed by the management from joining the duties. Ten years' absence was not explained anywhere. It was not the case of the workman that during this period of 10 years he went to duties and he was not allowed to work by the management. It was the duty of the workman to inform the management about his involvement in the criminal case and report on duty after the release on bail; but admittedly it was not done by the workman. He only went to duties after laps of 10 years.

19. It is the case of the workman that he was illegally terminated on 08.08.1993. It is his burden to prove that he has not voluntary abandon the services as is alleged by the management but the workman failed to discharge its burden. In M/s Jeewan Lal (1929) Ltd. Calcutta vs Its workmen 1961 SC 1567 the Apex court held as under;

“If an employee continues to be absent from duty without obtaining leave and in an unauthorized manner for such a long period of time the inference may reasonably drawn from such absence that by his absence he has abandoned service, there would be class of cases where long unauthorized absence may reasonable give rise to an inference that such service intended to be abandoned by the employer.”

20. As such, I find no merit in the case of the workman that he had been terminated by the management; rather the contention of the management seems to be correct that the workman himself abandoned his service. Therefore, from the facts and circumstances of the case and case laws narrated hereinabove; I come to the conclusion that the there was no termination of services of the workman on 08.08.1993 by the management; and accordingly, the workman, Rakesh is not entitled for any relief.

21. Award as above.

Dr. MANJU NIGAM, Presiding Officer

LUCKNOW

21st July, 2014

नई दिल्ली, 13 अगस्त, 2014

**का.आ. 2271.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 63/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2014 को प्राप्त हुआ था।**

[सं. एल-22012/354/2004-आईआर (सीएस-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th August, 2014

**S.O. 2271.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 63/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of Ballarpur Area of M/s. Western Coalfields Limited and their workmen, received by the Central Government on 13/08/2014.

[No. L-22012/354/2004-IR (CM-II)]

B. M. PATNAIK, Desk Officer

## ANNEXURE

### BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No.CGIT/NGP/63/2005 Date:10.07.2014.

**Party No. 1 :** The Chief General Manager,  
Ballarpur Area of  
M/s. Western Coalfields Limited,  
Post- Ballarpur, Chandrapur (M.S.)

### Versus

**Party No. 2 :** The General Secretary,  
National Colliery Mazdoor Congress,  
Dr. Ambedkar Nagar,  
PO: Ballarpur,  
Chandrapur (M.S.)

### AWARD

(Dated : 10th July, 2014)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of Industrial Disputes Act, 1947 (14 of 1947) (“the Act” in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Ballarpur Area of M/s. Western Coalfields Limited and their workman, Shri U.P.Verma, for adjudication, as per letter No.L-22012/354/2004-IR (CM-II) dated 18.07.2005, with the following schedule:-

“Whether the action of the management in relation to Ballarpur Area of WCL in rejecting the demand of Shri U.P. Verma, Magazine Incharge ¾ pits, Ballarpur Sub Area for medical examination by the Appellate Medical Board vide letter No. WCL/IR/MSD/U/80/359 dated 09/10.05.2002 of Dy. CPM(IR), WCL is legal and justified? If not, to what relief is the concerned workman entitled?”

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the workman, Shri U.P.Verma, (“the workman” in short), filed the statement of claim and the management of WCL, (“Party No. 1” in short) filed their written statement.

In the statement of claim the workman had pleaded that the action of the party No.1 in rejecting his demand for medical examination by the Appellate Medical Board was against the provisions of NCWA VI OR/and VII and therefore was illegal and arbitrary.

The party No.1 in the written statement, denying all the adverse allegations made in the statement of claim has pleaded inter alia that the workman had been examined by its Medical Board and he had been found to be fit for duty and there was no merit in the case for review and the workman not to be entitled to any relief.

3. It is to be mentioned here that during the pendency of the reference i.e. on 10.07.2014, the learned advocate

for the workman filed an application for disposal of the reference on the ground that the same has already become infructuous due to the death of the workman. After due consideration, the application filed by the learned advocate for the workman was allowed and the reference was fixed for passing of award.

4. Perused the record. The reference has been made by the Central Government for adjudication of the legality or other wise of the refusal of the party No.1 for medical examination of the workman by the Appellate Medical Board. Due to the death of the workman as intimated by the learned advocate for the workman, the reference has become infructuous. The right to sue also does not survive to the legal heirs of the deceased workman. Hence it is ordered:

#### **ORDER**

The reference is answered in the negative and against the workman, on the ground of the same has become infructuous.

J. P. CHAND, Presiding Officer

नई दिल्ली, 13 अगस्त, 2014

**का.आ. 2272.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 17/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2014 को प्राप्त हुआ था।

[सं. एल-22012/117/2007-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th August, 2014

**S.O. 2272.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/2008) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of Western Coalfields Limited, HLOC of Western Coalfields Limited and their workmen, received by the Central Government on 13/08/2014.

[No. L-22012/117/2007-IR (CM-II)]

B. M. PATNAIK, Desk Officer

#### **ANNEXURE**

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR**  
Case No.CGIT/NGP/17/2008 Date : 22.07.2014.

**Party No.1(a)** : The Chief General Manager,  
Western Coalfields Limited,  
Chandrapur Area,  
Post & Distt. Chandrapur (M.S.)

(b) : The Sub Area Manager,  
HLOC of Western Coalfields Limited,  
Chandrapur (M.S.)

#### **Versus**

**Party No. 2** : The Secretary,  
Rashtriya Colliery Mazdoor Congress,  
Ballarpur Branch,  
Dr. Ambedkar Ward, Ballarpur,  
Chandrapur (M.S.)

#### **AWARD**

(Dated : 22nd July, 2014)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of Western Coalfields Limited and their workmen, Shri K.B.Rathod and five others, for adjudication, as per letter No.L-22012/117/2007-IR (CM-II) dated 03.06.2008, with the following schedule:-

"Whether the action of the management of M/s. WCL in not giving the designation of Asstt. Foreman (Mech.) in grade 'C' to Shri K.B.Rathod and 5 others (list enclosed) as per the implementation instruction No.32 of NCWA-VI is legal and justified? To what relief is the workmen entitled?"

2. On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement and accordingly, the union Rashtriya Colliery Mazdoor Congress, ("the union" In short) filed the statement of claim on behalf of the six workmen, namely, Shri K.B.Rathod, Shri P.G.Rajukar, Shri M.M.Satare, Shri Bandu P.Jawale, Shri Ramesh B.Ajane and Shri Waman T.Talmale, ("the workmen" in short), and the management of Western Coalfields Limited ("Party No. 1" in short) filed their written statement.

The case of the workmen as presented by the union in the statement of claim is that it (union) is a registered Trade union under the Trade Unions Act, 1926 and party no.1 is a government company and is a "state" within Article 12 of the Constitution of India and under the approval of Ministry of Coal, Central Government constituted a Joint Bipartite Committee for the Coal Industry ("JBCCI" in short) consisting of all employers of Coal Industry and the five central Trade unions and the JBCCI jointly deliberated over the wage structure including dearness allowance, fitment in revised scale of pay, Pension, fringe benefits, service conditions and other allied matters including welfares/safety measures and such deliberations is known as "National Coal Wage Agreements" ("the NCWAs" in short) and the JBCCI has several committees and sub-committees for proper and uniform implementation of the provisions of NCWA in the entire Coal Industry and for maintaining uniformity and

proper implementation, the Secretary, JBCCI issues implementation instructions from time to time and no unilateral decision can be taken by any subsidiary in contravention of the provisions contained in the NCWAs and the provisions are mandatory and binding on all coal companies including WCL and seven NCWAs have been signed so far, which are known as NCWAs-I, II, III, IV, V, VI, and VII dated 11.08.1974, 11.08.1979, 27.07.1989, 19.01.1996, 23.12.2000 and 15.07.2005 respectively having operational period from 01.01.1975 to 31.12.1978, 01.01.1979 to 31.12.1982, 01.01.1983 to 31.12.1986, 01.01.1987 to 30.06.1991, 01.07.1991 to 30.06.1996, 01.07.1996 to 30.06.2001 and 01.07.2001 to 30.06.2006 respectively.

The further case of the workmen as presented by the union is that the workmen are holders of SSC and ITI certificates and they were appointed by Party No.1, by following the due procedure of recruitment and they put in loyal and unblemished service and hence, they were given regular promotion/placement in higher categories, first as per the "Training-cum-Placement Scheme" and then, as per the Cadre scheme evolved by the JBCCI from time to time and all of them have the educational and technical qualification required for their promotion to T & S Grade 'C', 'B', 'A' and above.

It is further pleaded by the union on behalf of the workmen that in the meeting of the Standardization Committee of JBCCI-VI held on 27.07.2001 and 28.08.2001 at CIL (HQ), Kolkata, the issue of career growth of ITI personnel was discussed and decided and according to the decision of the Standardization Committee, "Implementation Instruction No. 32 – National Coal Wage Agreement-VI" regarding "Career Growth of ITI Personnel" dated 22.01.2002 was issued by the Member Secretary of JBCCI and according to the said Implementation Instruction No. 32, "The existing ITI personnel, who have completed three years in existing grade on 03.12.1999 will be notionally placed in next higher category/grade w.e.f. 01.01.2000 but the financial benefit will accrue w.e.f. 01.01.2001 and this will be personal to them as one time arrangement and ITI personnel who have completed three years as on 31.12.2000 in the existing category/grade will be placed in next higher grade w.e.f. 01.01.2001 and this will be personal to them as one time arrangement" and though the workmen, M. Satare and P.G. Rajurkar vide Office Order No. 551 dated 30.05.2002 of Personnel Manager, Hindustan Lalpath Open Cast sub area and the rest four workmen, namely, K.B. Rathod, Bandu P. Jawale, Ramesh B. Ajane and Waman T. Talmale vide order dated 1803 dated 9/13.06.2002 of Suptd. of Mines/ Manager, Hindustan Lalpath Colliery no.3 were given the benefit in accordance with the aforesaid implementation instruction, the party No.1 by the aforesaid orders misinterpreted the instruction unilaterally, without the approval of the Member Secretary of JBCCI-VI and issued the said orders in contradiction of the instructions, as in

the said orders, it was mentioned that, "The placement will not make any difference in their present designation and nature of duties and the word "ITI" shall continue till their normal promotion as the case of service linked upgradation (SLU)" and as such, the said orders are illegal, arbitrary and against the spirit of the implementation instruction no.32 and the workmen approached the party no.1 repeatedly and also submitted letter dated 03.11.2003 and it (union) also approached the party no.1 at different levels, but the genuine grievance of the workman was not considered and their designations, as per the their placement and nature of jobs were not changed and they were debarred from promotion to higher scale to which they were eligible as per cadre scheme and it is clear from the orders issued by the authorities of other coal companies as per the implementation instruction No. 32 that the orders passed by party no.1 were illegal and liable to be quashed and set aside and as per the implementation instruction no. 32, the designation of workmen, Shri M. Satare should have been "Asstt Foreman/Chargeman, T & S grade 'C'" w.e.f. 01.01.2000, the designation of workman, namely, Shri P.G. Rajurkar, Shri K.B. Rathod, and Shri Bandu P. Jawale should have been "Asstt. Foreman (Mech.) T & S Grade 'C'" w.e.f. 01.01.2001 and designation of workmen, Shri Ramesh B. Ajane and Shri Waman T. Talmale should have been "Fitter Cat-VI" w.e.f. 01.01.2001.

Prayer has been made by the union to answer the reference in the affirmative and to direct the party no.1 to change the designation and jobs of the workmen as per their placement in the higher grade and to omit the ITI designation and to give them the consequential benefits of further promotion.

3. The party no.1 in the written statement has pleaded inter-alia that when any policy matter arising out of the decisions of the JBCCI Crops up, the same has to be decided by referring the same to the Standardization Committee of JBCCI and such provision has been made in JBCCI-I to VII and the present union was not a participant in the JBCCI and by picking up some stray cases, it is trying to create disturbance in the matter which has already been settled, merely for political reason than anything else as it would be evident from the fact that following the JBCCI decision and clarification issued by it, a good number of employees have been allowed up-gradation and there is no protest/grievance either by the concerned employees or any of the major unions and the intention of the union is only to vex and harass its management.

Party No. 1 has further pleaded that even otherwise also, a perusal of the relevant implement instruction of JBCCI reveals that the benefit to be granted to the concerned employees is only up-gradation and notional pay fixation and there is no directive for granting of promotion and the consequent pay fixation in the higher post and if the demand of the union is accepted and

designation of the higher post is granted, the same will amount to their automatic promotion and though not spell out specifically, the benefit granted by the JBCCI is in the nature of service linked up-gradation, under which, only the pay is upgraded without the benefit of pay fixation, as is done in the case of promotion and moreover, the employees, who are upgraded have to perform the duty in their original post and they are not given responsibilities and job performance linked with the upgraded post and for up-gradation, no DPC is required to be held nor the criteria of seniority, merit and competency of the employees, availability of sanctioned post etc. are applied and the JBCCI's decision clearly mentions that such benefit is one time and personal to them and the union has totally misconceived the provision of the JBCCI's implementation instruction No.32 and it is trying to obtain unmerited gain.

It is also pleaded by party No.1 that workmen, Shri K.B. Rathod and Shri Bandu P. Jawale were in fitter category VI and they were upgraded to grade 'C' vide office order dated 09/13.06.2002 and workmen, Shri Ramesh B. Ajare and Shri Waman T. Tamale were in category V and they were placed in category VI vide office order dated 09/13.06.2002 and workmen, Shri P.G. Rajukar and Shri M.N. Satare were in fitter category VI and they were upgraded to grade 'C' post vide office order dated 30.09.2002 as per I.I. No.32 and workman, Shri P.G. Rajukar and Shri M.N. Satare were in category V and they could not have been placed in grade 'C' by jumping category VI post and there was no change in the service condition of the workmen as laid down by JBCCI and any decision taken by any other coal company is not acceptable to it (WCL) and the reference is untenable and is liable to be rejected.

4. In the rejoinder, it is pleaded by the union on behalf of the workmen that party no.1 in the written statement has raised frivolous and baseless objections, with a view to exhaust the workmen and to prejudice the Tribunal and practice of raising preliminary objection to the reference is disapproved by the Hon'ble Apex Court in number of decisions and a settlement within the meaning of sub-section (3) of section 18 of the Act is binding on both the parties and continues to remain in force, unless the same is altered, modified or substituted by another settlement and the workmen are entitled for the benefits of Implementation Instruction No. 32.

5. At this stage, I think it apropos to mention that after filing of the written statement by party no.1, on 17.04.2011, the workman, Shri K.B. Rathod and the party no.1 filed a joint petition for passing of a compromise award, on the ground of their entering into a settlement and to have signed in Form-H. The settlement in Form-H duly signed by the parties and witnesses was also filed and in view of the said settlement, the application was allowed and case of workman, Shri K.B. Rathod was disposed of in terms of

the settlement. In view of the order dated 17.04.2011, the case of workman, Shri K.B. Rathod is disposed of in terms of the settlement entered into between him and the party no.1.

6. Besides placing reliance on documentary evidence, the union has examined one witness, namely, Lomesh Maroti Khartad to prove its case. No oral evidence has been adduced by party no.1. However, party no.1 has relied on documentary evidence in support of its stand.

The evidence of the witness examined by the union is on affidavit and he has reiterated the facts mentioned in the statement of claim. However, it is to be mentioned that in view of the stands taken by the parties and the documentary evidence produced by them, there is no need to consider the oral evidence of the witness to decide the reference.

7. At the time of argument, it was submitted by the learned advocate for the union that implementation instruction 32 was issued for career growth of ITI personnel and the said instruction was addressed to Chairman-cum-Managing Directors of all subsidiaries including WCL, who were signatories to NCW-VI and there is specific provision in NCWA that in case of any doubt or difficulty in interpretation of implementation, the same shall be referred to and settled by the JBCCI or committee constituted by JBCCI and Implementation Instruction no. 32 is regarding career growth of ITI personnel and party No.1 has deprived the workmen from their legitimate claim and the settlement is binding on the parties and party no.1 is a "State" under Article 12 of the Constitution of India and the party no.1 is bound to give the benefits of Implementation Instruction no. 32 to the workmen. In support of such contention, reliance has been placed by the learned advocate for the union on the decision reported in 2007 (115) FLR-427 (Mohan Mahto Vs. Central Coal Fields Ltd.)

8. It is to be mentioned here that on the date fixed for argument, neither the party no.1 nor their advocate attended the case and no argument was made on behalf of the party no.1.

9. On perusal of the materials on record including the pleadings of the parties, it is found that implementation instruction no. 32 as per the National Coal Wage Agreement-VI dated 22.01.2002 was issued by the Member-Secretary, JBCCI-VI in regard to career growth of ITI personnel. The union as well as party no.1 has filed the copy of the said Implementation Instruction no. 32 separately which have been marked as Ext. W-II and Ext. M-I respectively. Paragraphs 2 and 3 of Implementation Instruction no. 32 read as follows:-

(2) Existing ITI Personnel who have completed three years in the existing grade as on 31.12.1999 will be notionally placed in next higher category/grade w.e.f. 01.01.2000 but the financial benefit will accrue w.e.f.

- 01.01.2001 and this will be personal to them as one time arrangement.
- (3) ITI Personnel who have completed three years as on 31.12.2000 in the existing category/grade will be placed in next higher grade w.e.f. 01.01.2001 and this will be personal to them as one time arrangement.

It is also found from the pleadings of the parties and the documents, Exts. M-II and M-III,(document filed by the management) and Exts. W-III and W-IV (the documents filed by the union) that party no.1 as per Implementation Instruction no. 32, placed the workman, Shri M.N. Satare, who was in Electrical Category-VI in T & S grade "C" w.e.f. 01.01.2000 with financial benefit w.e.f. 01.01.2001 and Workman, Shri P.G. Rajurkar, who was in fitter category-VI, in T & S Grade "C" w.e.f. 01.01.2000 with financial benefit w.e.f. 01.01.2001, vide order dated 30.05.2002 and placed workman, Shri K.B. Rathod, who was in fitter category VI, in grade "C" w.e.f. 01.01.2001 with financial benefit w.e.f. 01.01.2001, workman, Shri Bandu P. Jawale, who was in Turner Category-VI, in grade "C" w.e.f. 01.01.2001 with financial benefit w.e.f. 01.01.2001 and workmen, Shri Ramesh B. Ajane and Shri Waman T. Talmale, who were in fitter category V, in category VI w.e.f. 01.01.2001 with financial benefit from 01.01.2001, as per order dated 9/13.06.2002. However, in both the aforesaid orders, it was mentioned by party no.1 that, "the employees so placed in higher category will carry their own designation and will continue to do the existing job and word "ITI" shall continue till their promotion, as the case of "SLU." Party No.1 has produced the document, the letter dated 30.03.2002/02.04.2002 issued by the General Manager (I.R.) of WCL to all the CGMS/GMS of WCL Areas, in which it was directed that on placement, existing ITI certificate holders will carry their own designation/ category/grade and when such employees get regular promotion, the word 'ITI' will be omitted and will carry their designation as per normal promotional channel and existing ITI personnel who are placed in higher category/grade will be governed as per their original designation for promotion in higher grade under relevant cadre scheme and this scheme will only be applicable to those existing ITI certificate holders/ employees who are presently deployed/working in their cadre designation.

From the pleadings of the party No.1, it is found that its plea is that the benefit granted by the JBCCI is in the nature of service linked up-gradation under which only the pay is to be upgraded without the benefit of pay fixation as is done in the case of promotion. However, on perusal of I.I.No.32, it is found that the interpretation made by the party No.1 in regard to the spirit of the said instructions is not at all correct. It is to be mentioned that the subject matter of II No.32 is regarding "Career Growth of ITI Personnel" and not of giving financial benefits to the ITI holders and Implementation Instruction no. 32 has nothing

to do with "service linked up-gradation," as claimed by the party No.1. The instructions given in II No.32 clearly indicate that the existing ITI holders are to be placed in the higher cadre/grade without following the normal course of promotion and to fix their pay in the higher cadre/grade from the date, as mentioned in the same.

Applying the principles as enunciated in the decision cited by the learned advocate for the union to the case in hand, it is found that the direction given in letter dated 30.03.2002/02.04.2002 by the General Manager (IR) of WCL is not statutory.

From the materials on record, it is found that the order of party No.1 that the order of placement will not make any difference in the present designation of the workmen, namely,Shri P.G.Rajurkar, Shri M.N.Satare,Shri Bandu P. Jawale, Shri Ramesh B. Ajane and Shri Waman T. Talmale and the nature of their duties and the word 'ITI' shall continue till their normal promotion as the case of SLU is not correct. Hence, it is ordered:-

#### **ORDER**

The reference is answered in favour of the workmen.

The case of the workman, Shri K.B.Rathod is disposed of in terms of the compromise petition and settlement in Form No. H filed by the said workman and the party No.1. The compromise petition and settlement in Form No.H are made part of the award.

Workman, Shri M.N.Satare is entitled for placement as Asst. Foreman/Chargeman,T & S Grade 'C' w.e.f. 01.01.2000 with financial benefits from 01.01.2001, workman Shri P.GRajurkar is entitled for placement as Asst. Foreman (Mech) T & S Grade 'C' w.e.f. 01.01.2001 and financial benefits from 01.01.2001, workman Shri Bandu P. Jawale is entitled for placement as Asst. Foreman (Mech) T & S Grade 'C' w.e.f. 01.01.2001 with financial benefits from 01.01.2001 and workmen, Shri Ramesh B. Ajane and Shri Waman T. Talamule are entitled for placement as fitter category VI w.e.f. 01.01.2001 with financial benefits from 01.01.2001. The five workmen as named above are also entitled for the designation in accordance to their respective placement.

J. P. CHAND, Presiding Officer

**BEFORE THE HONOURABLE PRESIDING OFFICER  
CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-  
LABOUR COURT, NAGPUR**

**Ref. No. CGIT/NGP/17 of 2008**

Between : Employers in relation to the Management of Chief General Manager Chandrapur Area/ Sub-Area Manager Hindustan Lalpath OC Sub-Area—WC Ltd.

**AND**

Their workmen

### **JOINT PETITION FOR COMPROMISE AWARD**

In the above mentioned Industrial Dispute Pending before the Hon'ble Tribunal for Adjudication the parties to the above dispute jointly submit that, they have arrived at a mutual settlement in Form-H'. Copies of the same are being enclosed.

In view of the amicable settlement arrived between the parties, they jointly pray that a consent award may kindly be passed accordingly.

-Sd- illegible  
 Area Personnel Manager  
 Chandrapur Area  
 WCL

K.B. Rathod  
 Fitter (Mech.)  
 Grade-C (ITI), BOC

Place :  
 Date : 26.4.2011

### **MEMORANDUM OF SETTLEMENT Form 'H' (SEE RULE -58)**

#### **NAME OF PARTIES**

- |                            |  |
|----------------------------|--|
| 1. Representing Employer : | 1. Shri S.T. Ghosh<br>Area Personnel Manager<br>WCL Chandrapur Area                |
|                            | 2. Shri M.V.R. Reddy<br>Sr. Manager (Per)<br>[IR/Legal]<br>WCL, Chandrapur Area    |
| 2. Representing Workman :  | 1. Shri K.B.Rathod,<br>Fitter (Mech.) Grade C<br>(ITI) Workman,<br>Bhatadi OC Mine |

#### **SHORT RECITAL OF THE CASE**

Shri K.B.Rathod Fitter (Mech.) Cat. VI filed the case before the ALC(C), Chandrapur under case No. ALCH-54/(05)/2005.

Shri Rathod was placed in T&S Grade-C(ITI) as per office order No. WCL/CHA/HLUGSA/HLC-3/M/SOM/Per/ 1803, dated 09/13.06.2002 w.e.f. 01.01.2001. The said placement was done as per I.I. No. 32 issued by member Secretary CIL Shri Rathod had challenged the said office order which was issued by the then Supdt. of Mines/ Manager HLC-3 mine. He had demanded that he should be considered as Asst. Foreman T&S Grade-C. The above issue was raised by the workman concern through Rashtriya Colliery Mazdoor Congress union at that time.

The above issue has not been settled before the ALC(C), Chandrapur and it has been referred to Ministry of labour after FOC.

Regarding promotion of Rathod was examined in the DPC of 2010-11 at Bhatadi OC Mine. Now the workman has submitted one written application that "he is ready to withdraw the case from CGIT" and to this effect he is

willing to enter in to a settlement Form - H in this matter for getting his promotion to the post of Asst. Foreman (Mech.) Grade-C.

This point was raised by the workman concerned at area level meeting and discussed the point at length and decided the case on the guidelines of WCL, HQ.

Now the Area Management has agreed to promote him to the post of Asst Foreman (Mech.) Grade-C after entering this settlement and promotion order will be issued with prospective effect with no benefit of the past. Moreover this matter was fully and finally settled on the following terms of settlement.

#### **Terms of Settlement**

1. The workman concern has agreed to withdraw the said case unconditionally from the CGIT.
2. It is agreed to promote him to the post of Asst. Foreman (Mech.) T&S Grade-C with prospective effect.
3. The workman has entered in to a settlement in Form- 'H' to this effect.
4. When the workman does not comply the above terms, then management has the right to withdraw the promotion order without assigning any reason.
5. This settlement resolves the issue fully and finally.
6. It is also agreed that copies of this settlement will be submitted to the concerned authorities.

Both the parties have agreed for the above terms of settlement.

Shri S. T. Ghosh Area Personnel Manager Chandrapur Area	Shri M. V. Rami Reddy Sr. Manager (Per) [IR/Legal] Chandrapur Area
---	---

Shri K. B. Rathod  
 Fitter (Mech.) Grade C (ITI)  
 Workman, BOC

Place : Chandrapur

Date : 26.3.2011

Witnesses of Management	Witnesses of Workmen
(1) -Sd- illegible	(1) (S. Vishwa Karma)
(2) -Sd- illegible	(2) (W. T. Shende)

नई दिल्ली, 13 अगस्त, 2014

**का.आ. 2273.—**ौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ौद्योगिक विवाद में केन्द्रीय सरकार ौद्योगिक अधिकरण/श्रम न्यायालय, असनसोल के पंचाट (संदर्भ संख्या 90/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2014 को प्राप्त हुआ था।

[सं. एल-22012/111/2000-आईआर (सी-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th August, 2014

**S.O. 2273.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 90/2000) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of ECL and their workmen, received by the Central Government on 13/08/2014.

[No. L-22012/111/2000-IR (C-II)]

B. M. PATNAIK, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL.

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

#### REFERENCE NO. 90 OF 2000

**PARTIES :** The management of Dhemomain Pits Colliery of M/s. ECL

Vs.

Sri Mitan Rana

#### REPRESENTATIVES:

For the management : Sri P. K. Das, Ld. Advocate

For the union (Workman) : Mr. M. Mukherjee Ld. Advocate

Industry : Coal

State : West Bengal

Dated – 21.07.14

#### AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its Order No. L-22012/ 111/2000-IR(C-II) dated 12.09.2000/15.09.2000 has been pleased to refer the following dispute for adjudication by this Tribunal.

#### SCHEDULE

“Whether the action of the management of the Dhemomain Pits Colliery in dismissing Sri Mitan Rana from services and also denying reinstatement thereof is legal and justified? If not, to what relief the workman is entitled?”

Having received the Order of Letter No. L-22012/ 111/2000-IR(C-II) dated 12.09.2000/15.09.2000 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 90 of 2000 was registered on 27.09.2000 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with

the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record, I find that my predecessor (Late Jayanta Kumar Sen, the then P.O.) of this Tribunal had reserved an award in this case because workman/union was neither appearing nor taking any step since long. It seems that the workman has now no more interest to proceed with the case further. As such the case is closed and accordingly an order of “No Dispute” award is hereby passed.

#### ORDER

Let an “Award” be and the same is passed as “No Dispute” existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for needful information. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 13 अगस्त, 2014

**का.आ. 2274.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असनसोल के पंचाट (संदर्भ संख्या 22/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2014 को प्राप्त हुआ था।

[सं. एल-22012/304/2001-आईआर (सी-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th August, 2014

**S.O. 2274.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 22/2002) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of Girmint Colliery, M/s. ECL, and their workmen, received by the Central Government on 13/08/2014.

[No. L-22012/304/2001-IR (C-II)]

B. M. PATNAIK, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra, Presiding Officer

#### REFERENCE NO. 22 OF 2002

**PARTIES :** The management of Girmint (R) Colliery of M/s. ECL

Vs.

Smt. Sugia Devi

**REPRESENTATIVES:**

For the Management : Sri P. K. Das, Ld. Advocate  
 For the union (Workman): Sri. S.K. Pandey, General Secretary of CMC (HMS)

Industry : Coal State : West Bengal

Dated – 21.07.14

**AWARD**

In exercise of powers conferred by clause (d) of Sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its Order No. L-22012/304/2001-IR(C-II) dated 01.08.2002 has been pleased to refer the following dispute for adjudication by this Tribunal.

**SCHEDULE**

“Whether the action of the management of the Girmint (R) Colliery in not regularising Smt. Sugia Devi as Ayah / Medical Ayah is fair and justified? If not, to what relief is the concerned workman entitled and from what date?”

Having received the Order of Letter No. L-22012/304/2001-IR(C-II) dated 01.08.2002 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 22 of 2002 was registered on 13.08.2002 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record, I find that my predecessor (Late Jayanta Kumar Sen, the then P.O.) of this Tribunal had reserved for award in this case because Sri S.K. Pandey, representative of the workman submitted that the workman was not traced out and no instruction had been received from her. The workman is also neither appearing nor taking any step since long. As such the case is closed and accordingly an order of “No Dispute” award is hereby passed.

**ORDER**

Let an “Award” be and the same is passed as “No Dispute” existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for needful information. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 13 अगस्त, 2014

**का.आ. 2275.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. सी. एल.

के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 32/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2014 को प्राप्त हुआ था।

[सं. एल-22012/33/2006-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th August, 2014

**S.O. 2275.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur, as shown in the Annexure, in the industrial dispute between the management of Jhingurdha Project of NCL, and their workmen, received by the Central Government on 13/08/2014.

[No. L-22012/33/2006-IR (CM-II)]

B. M. PATNAIK, Desk Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/32/2007**

PRESIDING OFFICER : SHRI R. B. PATLE

Shri Meghnath Sahu,  
 S/o Late Devraj Sahu,  
 At Vill. Medhauli,  
 PO Morwa,  
 Sidhi (MP)

.... Workman

**Versus**

Chief General Manager,  
 Jhingurdha Project of NCL,  
 PO Jhingurdha,  
 Sidhi (MP)

.... Management

**AWARD**

(Passed on this 4th day of July, 2014)

1. As per letter dated 28-2-07 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/33/2006-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of M/s. NCL in not correcting the date of birth of Shri Meghnath Sahu as 14-5-95 instead of 27-5-1940 is legal and justified? If not, to what relief is the ex-workman entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page

2/2 to 2/8. Case of Ist party workman is that after receiving order dated 7-12-99 from Personal Manager about his superannuation from 26-5-00, Writ Petition No. 3119 was filed by him in High Court. Hon'ble High Court directed him to approach Labour court within 90 days. After raising dispute before ALC, the dispute has been referred for adjudication by this Tribunal.

3. Workman submits that he was appointed as labour on 14-5-63 at age of 18 years. He worked with devotion. His submissions were appreciated by IIInd party issuing letter dated 6-10-99. That he was promoted to the post of Fitter Grade-III, II, I time to time. According to workman when he was initially appointed as labour, he was of 18 years of age. However his date of birth was wrongly corrected as 27-5-40. The correction of his date of birth was made without issuing notice to him. He claims ignorance about the object of his examination by Medical Board. The correction of his date of birth is illegal. He submitted representations dated 22-3-99, 2-4-99. He had submitted horoscope along with his representations. That as per entry in horoscope, his date of birth was recorded correctly. That his elder brother Jaimal Sahu was elder by 5 years. In Voter List, age of workman was shown as 53 & age of Jaimal Sahu was shown as 58 years. That Jaimal Sahu was working in other section was having 2-3 years time for retirement. Workman was retired assuming his date of birth was 27-5-1940. That applicant is prematurely retired. On such contentions, workman prays to quash communication dated 7-12-99 and direct IIInd party not to retire him arbitrarily. Workman also prays for monetary benefits from 27-5-00 to 26-5-05.

4. IIInd party filed Written Statement at pages 6/1 to 6/9. IIInd party submits that workman has retired on 26-5-00. The dispute is raised after lapse of time is not tenable. That as per provisions of Mines Act, the registers were maintained. Form B register was maintained. The date of birth of workman was recorded as per the entries maintained in register of employment in the mine prior to nationalization. That the service excerpts of workman were circulated as per Instruction No. 37. The workman has not placed any objection about his date of birth. The Instruction No. 76 provides that Matriculation Certificate or Higher Secondary Certificate issued by recognized Universities has proof of date of birth. The circular issued by Mining Sirdar is binding or similar other certificate issued by Manager are considered as valid proof of date of birth. He submitted that horoscope cannot be accepted as proof of date of birth of workman. That date of birth was correctly recorded as 27-5-40. At fag end of his career, workman prayed for correction of his date of birth. Document submitted by workman could not be accepted. The workman was referred by Medical Board. As per recommendation of Medical Board, his date of birth is recorded that there is no error in recording date of birth of

workman. IIInd party reiterates that date of birth of workman was correctly recorded. The claim of workman be rejected.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |  |                                       |
|--|---------------------------------------|
| (i) “Whether the action of the management of M/S NCL in not correcting the date of birth of Shri Meghnath Sahu as 14-5-95 instead of 27-5-1940 is legal and justified? | In Affirmative                        |
| (ii) If not, what relief the workman is entitled to?”  | Relief prayed by workman is rejected. |

### **REASONS**

6. Workman is claiming that his correct date of birth is 14-5-45 as recorded in horoscope. His date of birth was wrongly corrected as 27-5-40. That he was prematurely retired on 26-5-2000. He prays for appropriate order including monetary benefits. Relief prayed by workman is denied by IIInd party reiterating that his date of birth was correctly recorded in Form B register. Workman has failed to participate in reference proceeding. He has not adduced any evidence. His evidence is closed on 11-10-2012. Documents produced by workman are admitted and marked Exhibit W-1 to W-6. Admitted documents are Exhibit W-1 appreciating service of workman W-2 is information submitted by workman in prescribed form for retiral benefits, his date of birth is shown as 27-5-1940. Exhibit W-3 is representation submitted by workman. W-4 is reply given by management rejecting his claim. W-5 is communication dated 7-12-99 informing workman about his superannuation on completion of age of 60 years. W-6 is letter given by Personal Manager rejecting his claim for correction of date of birth. Management filed affidavit of evidence of Shri Kripal Singh supporting contentions raised in Written Statement filed by IIInd party. Witness has proved documents Exhibit M-1 to M-5. In service book of workman Exhibit M-5 details of workman are recorded, date of retirement is shown 27-5-00. Date of joining is shown 14-5-63. Date of birth is recorded 27-5-40. Workman failed to adduce evidence in support of his claim. On the other hand, management has produced documents to substantiate his contentions about correct date of birth of workman. For want of evidence by workman, I record my finding in Point No.1 in Affirmative.

7. In the result, award is passed as under:-

- (1) The action of the management of M/S NCL in not correcting the date of birth of Shri Meghnath Sahu as 14-5-95 instead of 27-5-1940 is legal and proper.
- (2) Relief prayed by workman is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 13 अगस्त, 2014

**का.आ. 2276.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 54/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2014 को प्राप्त हुआ था।

[सं. एल-22011/83/2008-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th August, 2014

**S.O. 2276.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 54/2009) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Food Corporation of India and their workmen, received by the Central Government on 13/08/2014.

[No. L-22011/83/2008-IR (CM-II)]

B. M. PATNAIK, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

#### NO. CGIT/LC/R/54/09

PRESIDING OFFICER : SHRI R. B. PATLE

Shri Babu Khan, Hmal,  
FCI Sioni Deptt.  
PO Sioni,  
Distt. Sioni (MP),  
Jabalpur ... Workman

#### Versus

Regional Manager,  
Food Corporation of India,  
Asha Vikas Kendra, 2722,  
Church Compound,  
Napier Town,  
Jabalpur ... Management

#### AWARD

Passed on this 21st day of July, 2014

1. As per letter dated 6-4-09 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-22011/83/2008-IR(CM-II). The dispute under reference relates to:

“Whether the demand of Shri Babu Khan and 20 others (as per list enclosed) for their regularization with the management of FCI is legal and justified? To what reliefs are the claimants entitled for?”

2. After receiving reference, notices were issued to the parties. Ist party workmen failed to submit statement of claim. Ist party workman proceeded ex parte on 28-11-2011.

3. IIInd party filed ex parte Written Statement. IIInd party submits that Babu Khan and 20 other labourers were labours of contractor Agrawal. There was no relationship of employer - employee between Ist party workman and IIInd party FCI. Ist party were never engaged by IIInd party. Workmen are not covered under Section 2(s) of I.D. Act. Incidentally IIInd party has pleaded that FCI Corporation is established as per Act of 1964. Handling and Transport contractors were engaged by IIInd party till 1989. Thereafter mate system was introduced. Under contract system, the labour charges were paid to contractor for the work performed. At present workmen are not working with FCI, they are not entitled to any relief.

4. IIInd party filed affidavit of witness Shri Vijay Kumar supporting contentions in written statement filed by IIInd party that workmen are not engaged by IIInd party. They are labours engaged by contractor. Employee employer relationship doesnot exist. It is submitted that workmen are not entitled to any relief.

5. Ist party workman has not filed statement of claim. IIInd party had denied employer employee relationship in written Statement as well as in affidavit of evidence. I find no reason to disbelieve unchallenged evidence of management's witness and uncontested pleadings in Written Statement. Therefore reference deserves to be answered in favour of the management.

6. In the result, award is passed as under:-

The demand of Shri Babu Khan and 20 others (as per list enclosed) for their regularization with the management of FCI is not justified.

R. B. PATLE, Presiding Officer

नई दिल्ली, 13 अगस्त, 2014

**का.आ. 2277.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 86/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2014 को प्राप्त हुआ था।

[सं. एल-22012/9/2007-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th August, 2014

**S.O. 2277.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 86/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of WCL and their workmen, received by the Central Government on 13/08/2014.

[No. L-22012/9/2007-IR (CM-II)]

B. M. PATNAIK, Desk Officer

## **ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

NO. CGIT/LC/R/86/07

**PRESIDING OFFICER : SHRI R. B. PATLE**

Dy.General Secretary,  
Rashtriya Koyla Khadan Mazdoor Sangh (INTUC),  
Regional office, Chandametta,  
PO Chandametta,  
Chhindwara ... Workman/Union

Versus

Chief General Manager,  
WCL, Pench Area,  
PO Parasia,  
Chhindwara

## AWARD

(Passed on this 10th day of July, 2014)

1. As per letter dated 7-9-07 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-22012/9/2007-IR (CM-II). The dispute under reference relates to:

“Whether the action of the management of WCL in not correcting their records in respect of date of birth of Late Shri Gondal in accordance with their order No. WCL/Pench/PE/Dy.CME/ ADC/84/878 dated 12-10-84 is legal and justified? If not, whether the demand of the Union for providing employment to Shri Ajay Kumar Markam, dependent of Late Shri Gondal is legal and justified? If so, to what relief is the dependent of Late Shri Gondal entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim. Case of 1st party workman is that Shri Gondal, S/o Kudalsi was working as Timber Mistry in Rawanwara Khas Colliery. He was member of INTUC Union. His date of birth was wrongly recorded. After death of workman, his son Ajay Markam submitted application for appointment on

compassionate basis. That Late Gondal S/o Kudalsi was appointed as Timber Mistry in May, 1973 in Rawanwara Khas Colliery. The services of employees of WCL are governed by NCWA. Mine was nationalized in 1973. The proprietor of the Mines destroyed record. Management was recording date of birth at their wills. It resulted in unrest among labours. Instruction No.39 was issued by management as per Bipartite settlement in the matter of correction of date of birth. Instruction No. 76 was issued by management in 1976. That Rawanwara Khas Colliery as per Instruction No. 39 of WCL Nagpur had recorded date of birth of employees. Notice was displayed on notice board on 28-9-81 inviting objection if the date of birth was not correctly recorded. That names of 31 employees including Late Bondal were in the list. Decision was taken to refer the matter of age determination to the Committee. Date of birth of late Bondal was wrongly recorded by Age Determination Committee. The age of Late Bondal was shown 35 years on 11-9-09/ however illegally he was retired on 1-9-03, 6 years before the date of superannuation. Despite of request and representations, the date of birth of late Bondal was not corrected. Representations were submitted on 29-11-03, 8-3-04 by Union. Shri Ajay Markam S/o Late Bondal has reiterated that date of birth of late Bondal was wrongly recorded. Bondal died leaving his widow, 3 sons and a daughter. All of his sons and daughters are unemployed. That they are entitled to retiral benefits after death of Late Bondal. Shri Ajay Markam appointed on compassionate ground as dependent of Late Bondal. Accordingly prayers are made in his Statement of Claim.

3. IIInd party management filed Written Statement denying claim of the dependent of workman Ajay Markam. IIInd party submits that dispute is raised by Union for correction of date of birth of Bondal. As per letter dated 12-10-84, employment is also prayed for Ajay Markam S/o Late Bondal. Correction of his date of birth is requested after lapse of 25 years from 12-10-84. That Bondal had died. He never disputed his date of birth. The dispute is referred after inordinate delay. It is not tenable. IIInd party has referred to provisions of Section 10 of I.D. Act. On 11-9-84, workman claimed his age was 35 years, his date of birth was recorded as 11-9-49. Ist party has not produced any document about date of birth of Bondal. IIInd party has referred to ratio held in various cases by Apex Court and High Court. It is reiterated that Union raised dispute first time after 2 years after retirement of workman. Such dispute is not tenable. As per Mines Act, Form B is required to be maintained. The date of birth of late Bondal was correctly recorded in Form B. Union had raised issue of correction of date of birth and Instruction Nos. 37, 76 were issued. As per said Instruction No. 76, the circular of matriculation, Hsc., University Board etc. are treated as correct evidence of date of birth. The correction of date of birth is required to be determined by Medical Board in

those matters. Such cases are not to be reopened unless they vary from it. As per date of birth of Bondal recorded 1-9-43, he was retired in the year 2003. All other adverse contentions are denied. IInd party prayed for rejection of claim of workman.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- (i) Whether the action of the management of WCL in not correcting their records in respect of date of birth of Late Shri Gondal in accordance with their order No. WCL/Pench/PE/Dy.CME/ ADC/ 84/ 878 dated 12-10-84 is legal and justified? In Affirmative
- (ii) Whether the demand of the Union for providing employment to Shri Ajay Kumar Markam, dependent of Late Shri Gondal is legal and justified? In Negative
- (ii) If not, what relief the workman is entitled to?" Workman is not entitled to relief claimed by him.

### REASONS

5. Present dispute is raised by Union after 2 years of death of Late Bondal. Statement of claim is filed by Ajay Markam S/o Late Bondal. Ajay Markam filed affidavit of his evidence covering his contentions in statement of claim. His father was appointed in Rawanwara Khas Colliery of Pench Area. After nationalization of coal mines in 1973, the proprietor of the mines destroy record. That the date of birth of his father was not correctly recorded. Age of his father was shown as 35 years as on 11-09-84. His father could have retired on 11-9-09, he was prematurely retired. He prays for his correction of date of birth as per Bipartite Settlement. In his cross-examination, Ajay Markam says he has no other document except which are produced on record. He is graduate. After looking to the appointment letter of his father, he has written para-3 of his affidavit. Para5,6 of his affidavit were not written after looking to any document. Para-7 to 10 of his affidavit are written after going through the records he had obtained. He had seen name list in file of his father.

6. Management's witness Y.Seshidhar covered contentions of management in Written Statement that the workman himself declared his age as 38 year on 1-9-91. Form B was properly maintained, date of birth of Late Bondal was 1-9-1943 and initial appointment was recorded as 17-12-73. Late Bondal was retired on 31-8-03 after attaining age of superannuation. Shri Bondal died on

31-3-05 after 18 months of his retirement. He has not raised any dispute.

7. Management's witness in his cross-examination says he was working at Rawanwara Mine from 2011. He seen documents relating to service of workman. He was unable to tell whether Annexure W-5 was issued by the Officer. He claimed ignorance about signature on Exhibit W-5 & W-6 and denied its contents. He also denied contents of Exhibit W-5, W-6 request for correction of his date of birth. The documents produced on record Exhibit M-1 is copy of Instruction No. 37, M-2 is copy of Instruction No.76. said document clearly spells that service records Committee held several meetings and the record notes of discussions were finally placed before the JBCCI-IV at the 9th meeting which were approved with certain modification. In Exhibit M-7, date of birth of workman is recorded as 1-9-43. In Exhibit M-6 age of workman Gondal is recorded as 38 years as on 1-9-81. His date of appointment is shown 1-5-73. Exhibit M-5 is notice of retirement dated 30-7-03. Late Gondal has not submitted any representation even after receiving notice. Exhibit M-5 is original of retirement notice and M-6 is original of Exhibit M-4. The service record of Bondal is produced at Exhibit M-7. His date of birth is shown as 1-9-43. Evidence of Shri Ajay Markam is silent that his father had raised any dispute about date of birth after receiving retirement notice. The dispute is raised by Union after 2 years of his death. Shri Ajay Markam has produced documents Exhibit W-1 is copy of order of reference, W-2 is notice dated 18-9-81. The employees were requested to confirm date of birth recorded against their names within 90 days. Exhibit W-3 is copy of retirement notice dated 1-3-03 to Late Bondal. Exhibit W-4 is application dated 9-3-03 submitted to Personal Manager concluding that his age was 35 years on 11-9-85. Exhibit W-5 is notice of retirement issued to Late Bondal. Exhibit W-6 is copy of application submitted by late Bondal objecting his retirement as 31-8-03. Ist party workman has not produced document about date of birth of Late Bondal either of school or certificate from Board. Therefore his claim cannot be accepted. For above reasons, I record my finding in Point No.1 in Affirmative.

8. Point No.2- Demand of Union for appointment of Shri Ajay Markam, dependent of Late Bondal is co-related to date of birth of Bondal. In view of my finding in Point No.1, workman has failed to establish correct date of birth, claim for appointment of Shri Ajay Markam on compassionate ground cannot be accepted. Therefore I record my finding in Point No.2 in Negative.

9. In the result, award is passed as under:-

- (1) The action of the management of WCL in not correcting their records in respect of date of birth of Late Shri Gondal in accordance with their order No. WCL/Pench/PE/DyCME/ ADC/ 84/ 878 dated 12-10-84 is proper.

- (2) The demand of the Union for providing employment to Shri Ajay Kumar Markam, dependent of Late Shri Gondal is not legal.
- (3) Workman is not entitled to relief claimed by him.

R. B. PATLE, Presiding Officer

नई दिल्ली, 13 अगस्त, 2014

**का.आ. 2278.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 184/1990) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2014 को प्राप्त हुआ था।

[सं. एल-22012/313/1989-आईआर (सी-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 13th August, 2014

**S.O. 2278.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 184/90) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of NCL and their workmen, received by the Central Government on 13/08/2014.

[No. L-22012/313/1989-IR (C-II)]

B. M. PATNAIK, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/184/90

PRESIDING OFFICER : SHRI R. B. PATLE

Secretary,  
Rashtriya Colliery Mazdoor Sangh,  
Post Jhingurda Colliery,  
Distt. Sidhi. ....Workman/Union

#### Versus

Northern Coalfields Limited,  
Singrauli,  
Distt Sidhi ....Management

#### AWARD

(Passed on this 17th day of July, 2014)

1. As per letter dated 18-9-90 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D.Act, 1947 as per Notification No.

L-22012/313/89-IR(Coal-II). The dispute under reference relates to:

“Whether the action of the management of Singrauli Area of NCL I changing the working hours of ministerial staff of Jayant Project, Jhingurda Project and Gorbi Project from 6½ hours per day on working days except Saturday alongwith 16 paid holidays to 8 hours per day alongwith 8 paid holidays is justified? If not, to what relief the workman entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party Union submitted statement of claim thrice. It is case of Rashtriya Colliery Mazdoor Sangh Union. That notice of change under Section 9-A of I.D.Act about change of working hours of ministerial staff from 6½ hours to 8 hours and paid holidays from 16 to 8 days was given by management of NCL. The Union made representation to Director of personnel of NCL, Singrauli on 12-7-88 protesting the proposed change. In the conciliation proceeding before ALC, Shahdol, stay was granted to maintain status quo about working hours of Ministerial staff of Jhingurda, Jayant and Gorbi Project. That the ministerial staff of those colliery were working 6½ hours a day since past 18 years opening of the mine. The working of ministerial staff of company headquarters at Singrauli is 6½ hours a day. Failure report was submitted by ALC, Shahdol. However the appropriate Government refused to make reference. Union filed petition No. 1550/90. Hon'ble High Court directed Government to make reference immediately.

3. Union submits that as per NCWA-III Para 12.4.1 only standardization Committee can look into the matters of working hours, leave etc. That offices at Jhingurda, Gorbi and Jayant are functioning since many years with 6½ hours a day. There is no justification for change of working hours to 8 hours per day. Union submits that the working 6½ hours is applicable to them. That Ministerial staff and administrative staff are exempted from observation in Chapter VI of Mines Act. In view of notification of Government of India, S.O.No. 3699 dated 22-11-65. Item 10 in the schedule provides persons employed in welfare services including pithead baths, canteens and crèches, issuing of food staff in hospitals and dispensaries in sanity or conservancy work etc. The provisions of exemption contained in Section 28,29,33,38,44,45,46 and sub section (1) and (4) of Section 48 ministerial staff has been working 6½ hours a day and getting 16 paid holidays. Change is arbitrary. Union prays for rejection of change. Statement of claim submitted by Vice President of Coal Fields Labour Union, Jhingurda Colliery is on the similar lines. That NCL management unilaterally decided to change working hours and paid holidays issuing orders. Union filed case against management before ALC, Shahdol. After direction by Hon'ble High Court, the reference was made. NCWA-III

provides existing certain benefits not covered or altered by the agreement. That management of coal company is on record will not resort to unilateral interpretation of the agreement. It shall be duty of the standardization committee to examine different descriptions, disparities in service conditions etc. That the proposed change being policy matter, only JBCCI can take any decision about change of working conditions. NCL management cannot change working conditions of its employees in their headquarter at Singrauli which is closely associated with the projects. That the Ministerial staff and administrative staff working in office are exempted from operations of provisions of Chapter VI of the provisions of Mines Act in view of notification issued by Govt. of India S.O.No. 3699 dated 22-11-1963. It is submitted that proposed change is not legal.

4. National Colliery Workers Federation submitted separate statement of claim on similar lines. That since Jayant Project, Jhingurda Project, Gorbi Coal Mines come in existence the working hours of ministerial staff in these mines have been 6 ½ hours per day. That in turn made it 36 hours in a week. All the members of Ministerial staff have been getting 16 paid holidays in a calendar year. These mines were working since 14 years and 17 years respectively. It is submitted that the JBCCI has accepted existing practice in those mines of 6 ½ working hours per day and 16 paid holidays in a calendar year. Management issued notice of change on 30-6-88 under section 9-A of the Act. The change of working hours of Ministerial staff for 6 ½ days and paid holidays of 16 days is illegal, unreasonable. It is alleged that the change is arbitrary. It is reiterated that working hours in all those mines were 6 ½ hours per day and paid holidays were 16 in a year. The change is alleged to be detrimental to the interest of the workers. Such change should not be allowed.

5. Management filed Written Statement at page 24/1 to 24/9. It is submitted that the coal mines were owned by Private owner. The mines were nationalized in 1973. The title and interest of owners are transferred. Ownership and control of mines are vested with State for common good. The administration of coal mines has been vested to different companies including IInd party NCL. It is subsidiary company of Coal India Ltd. That Government constitute a central wage board for coal industry. The Wage Board after examining cases of both parties submitted recommendations for fixing service conditions of employees and wages. The service conditions of employees industry is covered by Wage Board Recommendation. The Wage scale have been fixed taking into consideration 8 hours working a day and not 6 ½ hours a day. More than 7 lakh employees are working in Coal industry in various states. NCDC was a public sector company. The Govt. collieries were followed the Central Govt. pay scale and working patter which resulted in following Central Govt. pattern of working hours and

holidays. Due to some misunderstanding or ignorance in some collieries of NCDC, wrong working hours of clerical staff are shown 6 ½ hours a day. It was subsequently stopped after nationalization but some companies taken over by NCDC, the service conditions of employees were protected in Agreement. That thousands of workmen were working 8 hours per day having 8 paid holidays. Those employees were protesting against illegal benefits given to selected workers. It was necessary to have common working hours in service conditions, pay scales in the industry. It is reiterated that the provisions of Mines Act provides working hours not more than 48 hours in a week, not more than 9 hours in a day, not to continuously work more than 5 hours. Similar provisions are reproduced in Written Statement of management. It is submitted that employee is duty bound to work 8 hours as per conditions of service. The ministerial staff attached to those three projects were working only for 6 ½ hours per day enjoying 16 paid holidays. Double rate of overtime wages were paid to them. Only 22 staff posted in those 3 projects were enjoying better facilities about working hours and holidays. It was required to be nationalized therefore notice of change under Section 9-A was given. It is submitted that change is not illegal. It is consistent with provisions of Mines Act, NCWA Agreements. It is submitted that there are 4 claimants namely RCMS, CLU, BKMS(BMS) and MPCWF. All claimants not filed their statements. The management summarized its stand that notifications of mandatory provisions under Section 9A of I.D.Act as it doesnot amount to change in service conditions. If demand of Union is admitted, lack of employees will come up with a similar demand and it may be difficult to resist such a claim. This will create total unrest in the Industry.

6. It is further submitted that employees covered under Wage Board Agreement have been given benefits under NCWA-I to IV of LTC, LLTC, free supply of fuel and electricity, special leave of six months to those who suffer from TB, Cancer, Leprosy etc. Union raised point that without making change in working hours, the matter would have been protected because they are working under the Govt. Rules. The point arises under NCWA-I to IV only matter regarding 8 hours working in the standardization committee doesnot arise. The Ministerial staff was appointed prior to 1967 i.e. CPC staff and their service conditions have been protected because they are working under the Government. The employees who are appointed after 1967 accepted service conditions under Wage Board NCWA-I to IV. The question of discussing matter regarding 8 hours working is not required. On all such contentions, IInd party prays that award be passed in its favour.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- (i) Whether the action of the management of Singrauli Area of NCL I changing the working hours of ministerial staff of Jayant Project, Jhingurda Project and Gorbi Project from 6 ½ hours per day on working days except Saturday alongwith 16 paid holidays to 8 hours per day alongwith 8 paid holidays is justified?
- (ii) If not, what relief the workman is entitled to?"
- |                |  |
|----------------|--|
| In Affirmative | Workman is not entitled to any relief. |
|----------------|--|

### **REASONS**

8. Both parties have submitted written notes of argument. I have carefully gone through it. The parties are supporting their contentions in statement of claim and Written statement filed by IIInd party. In notes of argument submitted by IIInd party, ratio in various cases have been reproduced. Before dealing with oral evidence, it would be appropriate to look into the documents produced on record. Ist party Union produced documents Exhibit W-1 to W-46. By document Exhibit W-1, Govt. refused to make reference for the reasons that in other projects, workmen worked for 8 hours and get 8 paid holidays. In order to bring uniformity, working hours of these project issuing notice under Section 9-A of I.D.Act, the action of management appears in consonance with the provisions of Mines Act. Exhibit W-2 is intimation given by Union Secretary about their intention to challenge the notice of change relating to working hours and paid holidays. Exhibit W-3 is copy of order passed in miscellaneous petition 1550/90 by Hon'ble High Court directing Union of India to make reference within 2 months. Exhibit W-4 is office order dated 27-6-90 about change of working hours 8 hours per day and paid holidays 8 per year. Exhibit W-5,6 is also copy of office order about change of working hours. Exhibit W-7 is letter given by General Manager (Personnel) to General Manager to respected mines about change of working hours and deduction of salary. Exhibit W-8 is copy of order passed by Hon'ble High Court declining to grant him interim relief observing that the interim relief would be sought from Industrial Court. Exhibit W-9 , 10, 11 are office orders about the holidays and working hours. Exhibit W-12 to 20 are office order about holidays on different festivals and working hours. Exhibit W-21 to 30 are office orders about the national holidays and restricted holidays. Exhibit W-31 to 35 & 37 are office orders about working hours. Exhibit W-36 is letter by Desk Officer refusing to make reference. Reasons are given on reverse side already discussed above. Letter Exhibit W-38 is issued by General Manager (Personnel) to the General Manager of respective mines. Exhibit W-39, 40 are copy of letter given by ALC relating to failure report. Exhibit W-41 is

copy of Joint Committee Report for coal Industry. Said report relates to minimum wages, Railway fair, leave and festival. To be precise, said report provides leave will continue to be governed by the Mines Act, Existing paid festival holidays will continue as at present. Existing benefits and facilities not covered or altered by the Agreement shall continue as hitherto. Report is silent about working hours per day or paid holidays in a year. Exhibit W-43 is copy of Chapter XI. It provides existing benefits and facilities is not covered or altered by this agreement shall continue as hitherto. The details are given of basic pay to different categories of employees. Exhibit W-44, 45 is copy of Chapter XI repeat of Exhibit W-43. Both Union have claimed that by issuing notification in 1963, the Ministerial staff was exempted from provisions of Mines Act. Such notifications or circular issued by Government of India is not produced. The notification produced on record appears relating to the award passed under Industrial Development Regulation Act, 1951. It has no bearing to the controversy between parties. Copies of NCWA-II, III are found on record but point of working hours of Ministerial staff and paid holidays to them is not considered in those documents.

9. IIInd party has produced documents Exhibit M-1 copy of proceeding dated 3-6-88, in said meeting question of change of working hours and paid holidays was not considered. In Exhibit M-2 in minutes of meetings dated 2-9-88 para-3, the Advisory Committee considered the point of change of working hours from 6 ½ hours to 8 hours observing that notice of change under Section 9-A was issued by the management. Exhibit M-3 is notice of change in Form B. Exhibit M-4 is also a notice of change shown in Annexure working hours 8 per day and paid holidays 8. A formal notice of change is produced at Exhibit M-5. Exhibit M-6 is failure report submitted by ALC. Exhibit M-7 is letter of Desk Officer refusing to make reference. Reasons are given on reverse side already discussed above. Exhibit M-8 is letter given by General Manager Shri A.K.Singh that matter was discussed with D(P) with RCMS, SKMS and BKKMS Unions at corporate level. It also discussed matters with General Managers etc. The ministerial staff who were appointed before 15-8-67 pre-wage board entrance their working hours will remain 6 ½ and paid holidays-8. Exhibit M-9 is copy of office order dated 28-6-90 about change of working hours as per notice under Section 9-A of I.D.Act. Exhibit M-10 is also office order of the same day. Document M-11 is office order dated 27-6-90 about change of working hours. Exhibit M-12 is copy of order passed by Hon'ble High Court in Miscellaneous petition 1550. Exhibit M-13 is copy of award passed by CGIT, Dhanbad in the matter of change of leave from 18 to 7. Certainly said award is not binding on undersigned. The documents Exhibit M-14 to M-42 are undertaking given by the employees working as per change in working hours under protest. Exhibit M-43, 44, 45 are

also undertaking given by workman subject to rights till decision of the reference.

10. All the documents discussed above do not pertain to exemption to the ministerial staff granted from provisions of Mines Act. Ist party examined only witness Shri Baburam Operator in Beena Project. His evidence is on the line that working hours in Jhingurda, Gorbi mines were 6½ hours per day. The staff working in those projects was transferable from one project to other project. That he was member of Joint Bipartite Committee for Coal Industry. That previously wage Board Recommendations, standardization Committee were submitted. If any discrepancies is found in any project of Coal India, the matters are submitted before the Committee and the Committee used to take decision. The point of change of working hours was never submitted before the Committee. Above witness in his cross-examination says he joined service in Bina Project in 1976 in ministerial staff. Working hours of ministerial staff was 8 hours per day. 8 hours working were in all the projects except Headquarter, Jayant Jhingurda and Gorbi Project. Working hours of mining staff in those project was 8 hours. Evidence of above witness for Union has not stated any justification continuing working hours of ministerial staff 6½ hours per day. On the other hand, his evidence shows in all other projects, working hours were 8 hours per day. If working hours of mining staff were 8 hours per day, why ministerial staff should have 6½ days per days the justification is not given by witness.

11. Management filed affidavit of evidence of Shri S.D. Singh. Management's witness had supported contentions of IIInd party that working hours of clerical staff were 6½ hours. To bring uniformity, notice of change introduced was issued on 18-7-88 bringing in uniform working hours of 8 hours per day. The present change was merely a correction of omission in giving lesser working hours to a few people. 8 hours working is applicable to all project under Coal India. The Headquarter of Coal India in various headquarters are having policy of 6½ hours working. Said policy is not applicable to mines/project of coal mines. In his cross-examination, management's witness says there are various collieries at Singrauli with different names. In meeting as per Exhibit M-2 representatives of Trade Union participated. The working hours at Headquarter is 6½ hours, 16 paid holidays and 2 Restricted Holidays.

12. It is denied that working hour are changed. He explained that they have changed working hours of collieries also. Witness has given distance from headquarter to each mines as 16 kms., 8 to 10 kms. and 4 kms. respectively. That clerks doing typing work billing work, accounts work has 8 hours working. He claims ignorance whether the store was opened on holidays

Vasant Panchami. He denies that at Jhingurda, Jayant and Gorbi Project, 6½ hours or 8 hours per day is applicable. The pleadings and evidence on record clearly shows that working hours of ministerial staff in those three mines was 6½ hours and working hours of other staff is 8 hours per day. The notice of change is given to have uniformity with whole over working in the mines which cannot be said discriminatory.

13. Counsel for management IIInd party relies on ratio held in

Case of M/s. Saxby and Farmer India Ltd. Versus their workmen reported in AIR 1975 SC-534. Their Lordship held it is generally accepted that there are too many public holidays in our country. When the need for industrial production is urgent and paramount, it may be advisable to reduce the number of such holidays in industrial concerns. It cannot be disputed that a necessary step in the direction of increasing the country's productivity is the reduction of number of holidays.

Further reliance is placed in ratio held in case of Associated cement Staff Union versus Associated Cement Company reported in AIR 1964-SC-914. Their Lordship dealing with change of working hours. The hours of work found reasonable in 1950. Change in 1961 on relevant considerations held justified. Principles of res-judicata not applicable.

In above cited case, working hours were 34 in a week were increased to 36 hours in a week in 1961. Though facts are little different, principles laid down equally covers the present case.

14. The provisions of Mines Act are also brought to my notice by learned counsel Shri A.K.Shashi for IIInd party. Section 13 of Mines act clearly provides working hours not exceeding 48 hours per week and 9 hours a day. Continuous working not more than 5 hours per day. The change is proposed by issuing notice, therefore cannot be said illegal, discriminatory. For above reasons, I record my finding in Point No.1 in Affirmative.

15. In the result, award is passed as under:-

- (1) The action of the management of Singrauli Area of NCL I changing the working hours of ministerial staff of Jayant Project, Jhingurda Project and Gorbi Project from 6½ hours per day on working days except Saturday alongwith 16 paid holidays to 8 hours per day alongwith 8 paid holidays is proper and legal.
- (2) Employees represented by Union are not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 14 अगस्त, 2014

**का.आ. 2279.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चण्डीगढ़ के पंचाट (संदर्भ संख्या 727/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/08/2014 को प्राप्त हुआ था।

[सं. एल-41012/138/1997-आईआर (बी-I)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th August, 2014

**S.O. 2279.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 727/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court-II, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 11/08/2014

[No. L-41012/138/1997-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present:** SRI KEWAL KRISHAN, Presiding Officer

**Case No. I.D. No.727/2005**

Registered on 1.9.2005

The Branch Secretary,  
Uttariya Railway Mazdoor Union,  
C/o Sh. D.R. Sharma,  
H. No. 551, Sector 41 A,  
Chandigarh. ....Petitioner

#### Versus

The Divisional Railway Manager,  
Northern Railway,  
Ferozepur Cantt. ....Respondents

#### APPEARANCES

For the workman : Sh. R.P. Rana Adv.

For the Management : Sh. N.K. Zakhmi Adv.

#### AWARD

(Passed on 12-6-2014)

Central Government vide Notification No. L-41012/138/1997-IR(B-I) Dated 27.11.2001, by exercising its powers under Section 10 Sub Section (1) Clause (d) and Sub Section (2-A) of the Industrial Disputes Act, 1947

(hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of the management of the Northern Railway in not giving seniority to Sh. K.K. Kapoor w.e.f. 1.1.83 is justified? If not, what relief the workman concerned is entitled and from what date?"

Shorn of unnecessary details, facts in brief are that workman joined the respondent management on 17.4.1963 (FN). He was given promotion from time to time. He was promoted as officiating Head Clerk in the pay scale of Rs.425-700/- w.e.f. 1.1.1983. He was transferred along with the post to the Personnel Branch of the respondent vide order dated 27.5.1985. When the cadre was restructured, the workman was regularized as Head Clerk w.e.f. 1.1.1984.

Now according to the workman, his services were to be regularized w.e.f. 1.1.1983 when he was promoted on ad hoc basis; whereas according to the management the said period cannot be taken into consideration. It is also the case of the workman that the persons junior to him were promoted as Head Clerk w.e.f. 1.1.1983.

Parties led their evidence.

In support of his case, workman appeared in the witness box and filed his affidavit reiterating his case as set out in the claim petition.

On the other hand, management examined Sh. Rajesh Kumar who filed his affidavit reiterating the stand taken by the management and further pleaded that as per Para 302 of the Railway Establishment Manual, ad hoc service is not countable for fixation of seniority.

I have heard Sh. R.P. Rana, counsel for workman and Sh. N.K. Zakhmi, counsel for the management.

It was vehemently contended by the learned counsel for the management that the services of the workman are not to be regularized w.e.f. 1.1.1983 when he was promoted on ad hoc basis and he was given due promotion w.e.f. 1.1.1984 as per the relevant rules, and as such, there is no merit in the claim of the workman.

I have considered the contention of the learned counsel.

It is not disputed that the workman was promoted as officiating Head Clerk w.e.f. 1.1.83 purely as local arrangement against an existing vacancy. Later on, he was transferred to another branch i.e. Personnel Branch of the Railways. It is again not disputed that his services as Head Clerk were regularized w.e.f. 1.1.1984. Now the only dispute is whether the service rendered by him on ad hoc basis is to be considered for reckoning his seniority i.e. regularization of service. This matter came up for decision before the Hon'ble High Court in Union of India Vs. Central Administrative Tribunal, Chandigarh and

another in 2005(4) RSJ 433, wherein it was observed in para 7 and 8 of the judgment as follow:-

(7) In the case of T. Vijayan (supra), the Supreme Court considered Rule 216-A which deals with ad hoc promotion against selection and non-selection posts. The aforesaid rule provides as under:-

**“216-A Ad hoc promotion against selection and non-selection posts.**

(i) Ad hoc promotions should be avoided as far as possible both in selection and non-selection posts, and where they are found inescapable and have to be made in the exigency of service, they should be resorted to only sparingly and only for a short duration of 3 to 4 months. The ad hoc promotion should be ordered only from amongst senior-most suitable staff. As a rule a junior should not be promoted ignoring his senior.

(8) After considering the aforesaid Rule, it has been clearly held by the Supreme Court that ad hoc promotion is permissible pending regular selection. Once ad hoc promotion is found to be permissible under the rules, it has to be held that the respondents who had been promoted on ad hoc basis in the exercise of service pending regular selection, are entitled to the benefit of ad hoc service for reckoning their seniority and fixation of pay etc.

Thus, as per rules of the Railway Establishment Manual ad hoc promotion is permissible and when it is so, the workman is entitled to the benefit of ad hoc service for reckoning his seniority and fixation of pay etc. Therefore the action of the management in not giving seniority to the workman w.e.f. 1.1.83 is not justified.

In result, the reference is accepted holding that the action of the management in not giving seniority to the workman w.e.f. 1.1.1983 is not justified and the workman is entitled to seniority and pay fixation etc. from the said date. The reference is accordingly answered in favour of the workman. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 14 अगस्त, 2014

**का.आ. 2280.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार रिज़र्व बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद के पंचाट (संदर्भ संख्या 32/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/08/2014 को प्राप्त हुआ था।

[सं. एल-12011/38/2003-आईआर (बी-I)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th August, 2014

**S.O. 2280.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 32/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of Reserve Bank of India and their workmen, received by the Central Government on 13/08/2014

[No. L-12011/38/2003-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD**

**PRESENT :** SHRI KISHORI RAM, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D.Act.,1947

**REFERENCE NO 32 OF 2004**

**PARTIES :** The General Secretary,  
Reserve Bank Workers' Organisation  
Patna-6/E,Rajendra Nagar,Patna

**Vs.**

Regional Director,  
Reserve Bank of India,  
South Gandhi  
Maidan, Bihar, Patna

Ministry's Order No.L-12011/38/2003-IR(B-I) dt.26.02.2004

**APPEARANCES :**

On behalf of the : Mr. O.P. Bihari, Representative  
workman/Union of the workmen

On behalf of the : Mr. A. K. M. Mustaque  
Management Management Representative

State : Bihar Industry : Banking

Dhanbad, Dated the 9th June, 2014

**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-12011/38/2003-IR (B-I) dt.26.02.2004.

**SCHEDULE**

“Whether the action of the Management of Reserve Bank of India in not allowing of the scheme of financial compensation as per the central circular No.DCM (NPD)/851/9.39/01-02 being extended also to the class III & IV employees of the Vault Sections explaining that increase in work load of note

examining section does not proportionally increase the work load of the Vault Section correct, legal and fair? If not, to that relief the workmen in the Vault Sections are entitled to?"

On receipt of the Order No. L-12011/38/2003-IR (B-I) dt.26.02.2004 of the above mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 32-2004 of was registered on 23.03..2004 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their Representatives and the Joint Legal Adviser appeared in, and contested the case, respectively.

2 The case of the Reserve Bank Workers' Organization for the class III and IV employees of the Reserved Bank of India is that the instant Organization is a registered one which is affiliated to the Indian Labour Organization, the National Organization of Bank Workers and All India Reserve Bank Workers Organisation. Performance of work is done by the Reserve Bank, Patna through two Sections (i) Banking/General Section and (2) Issue section. The Cash section is under the Issue Section. Counting of currency Notes and examination of the different notes deposited by different business Banks, the Government departments such as Railway, Postal, and Communication are effected in different subsection of Note examination. The work in the Note Examination sub-sections accomplishes in two shifts- one before and other after the lunch. The definite determined quota in the both shifts for counting and examination of the currency Notes of different denomination is as such: 4000 for Rs.1000/-, 500/- each, Rs.4, 400, 4,600 and 5,300 for Rs.100/-, Rs.50/- and Rs.20/- respectively. The Bank had introduced the Scheme (Financial Compensatory Scheme) for maximum money for maximum work in respect of the workers (Class III and IV) and the Officer working in the Cash Section w.e.f. 01.07.2002. The scheme carried on in different phases till December 2002.Under the scheme the Bank got work done by the employees/officers 50% more by giving them per capita Employees/Officers per day Rs.150/- and Rs.100/-.

Further alleged that the scheme was enforced equally for all the employees and the Officers posted in the Notes Examination Sections. Whether they had direct relation with their work of the Note Examination or not was never cared for .e.g. the Section Officer Grade 'B', the Group Supervisor Grade 'A'. The Table Assistant and the Guard

others. Namely the amount was paid to those who were effected by the direct impact of the increase in discharge of their duties. The currency Notes in Chest by the commercial Banks are sent to Reserve Bank for counting and examining it. The Currency Notes in the Chest are depositing in the Chest Vault of the Reserve Bank of India and after the end of work in the different Note Examination Sections, the notes which are not to be reissued or which have been defaced are deposited in the defaced Notes Vault. The increase in the quota following the enforcement of more work more money scheme in the different Note Examination Sections has practically affected, the defaced Note Vault and Chest Note Vault, because the workmen from these Vault were engaged in the Note Examination Section for the work, and after the end of the work, it was deposited as per the Table of the Defaced Vaults noted in para 5 of the written statement of the workmen for the year January to Nov., 2002. The engaged Employee and the Officers at these places have been deprived of the benefits of the scheme. Whereas due to the increased work in the Examination Section, it had been to perform more work proportionately at those places which is evident from the aforesaid table. This is quite unjust and illegal. The Bank has been discriminating. Mr.Narmedeshwar Pandey, the Note & Coin Examiner, Gr.II who is the member of the Union, was posted as the Asstt. in the defaced Vaulet. He had requested the Management as per his letter dt. 08.07.2002 for the benefits of the Scheme, but due to unresponse of the Management, the Sponsoring Union has raised the Industrial dispute for the reliefs of the benefits under the said scheme.

3. The Sponsoring Organization in its rejoinder has categorically denied the allegations of O.P./Management, and alleged that if no quota system was applicable to the officers deployed in the Note Examination Section or in the vault or in general why they were given compensation under increased quota system. Paper work load in vault Section is directly proportional to the quantum of works carried out in the Coin/Note Examination Section as evident from the workman load doubled during July, 2002 to Sept., 2002. Class III Employees deployed in vault had to write distribution of Notes in CD-58 Register according to face value of each bag and the two slips mentioning details inside each bag. When compensation was given for increased work in Note Examination Section, why it should not be given for the increased work in the vault. So the action of the Management in denying the benefits of the Scheme in respect of the Employees of vault Sections is unfair labour practice, discrimination and illegal. So workmen concerned of the vault are entitled to benefits of the Scheme.

4. Whereas categorically denying the allegations of the Sponsoring Organisation, the O.P./Management has alleged in their statement that the Reserve Bank of India is a body corporate constituted under Sec. 3 of Reserve Bank

of India Act, 1934 specially meant for regulating the issue of Bank Notes, keeping of reserves for monetary stability in the Country and generally for the operation of currency and credit system of the country to its advantage. The Service conditions of the staff employed by the Bank are governed by Reserve Bank of India (Staff) Regulation 1948 and the instructions issued by the Bank time to time. Besides Class-III & IV, workmen are also governed by the Awards, settlements/agreements entered into between the Bank and Representative Union time to time. The present Organization is not a recognized Union, so the Bank is under no obligation to negotiate with any Union other than All India Reserve Bank Employees' Association, of which majority of the Class- III employees of the Bank have the membership.

5. The Bank is under the obligation to issue Bank Notes and not to issue the torn, defaced or soiled aunt notes under Secs. 22 and 27 of the Act respectively so as to maintain the quality of the Notes in circulation. The Bank serves the public with eliminating the torn, defaced, excessively soiled notes from circulation, and with introducing of fresh notes into circulation to the needy public. The Bank under the statutory provision has right to organize or reorganize its functions. In order to effectively discharge its duties under the law, the Bank on consensus of the recognized Union has adopted and introduced the Clean Note Policy scheme as per the Circular dt. 9.6.2002 (Annexure- A) as special monetary incentive to the staff of the Coin Note Examination Section for carrying out additional work apart from their allotted duties, as there had been a huge accumulation of soiled notes in vaults due to a lower rate of its destruction as contrasted with a huge accumulation of notes in circulation in the country. The process of elimination of soiled notes from circulation involves a detailed examination and verification of each note in particular at Coin Note Examination Section of the Bank. Whereas the job of class III employees posted in Vault is limited only to the passing of a Book entry in the vault Register and preparation of vouchers. They have no task of counting the notes or application of skill and knowledge in examining the notes as the staff of Note Examination Section have. Additional benefit was given for additional quota of job which was in excess of the regular work. The output of the class III employees in the Note Examination Section is quota based. They are also entitled for overtime if they work beyond the normal working hours. The NE (Note Examination) employees have to complete the examination of notes as per the quota allotted to them as per the consensus arrived at between the Management and the recognized Association Union. The instant unrecognized Union at Patna is quite aware of it. It is a step to achieve harmony and peace in the emergent situation arising out of large circulation of notes which result in an urgent need to examine the much higher quantum of soiled and reissuable

notes. Merely an increase in the work of the Examination Section amounts to no extra entries in the vault books, so the demand of the unrecognized Union for the vault section employees any extra payment for their work is unjustified. Besides, there is no quota of minimum of 400 bundles to be handled per day by each Mazdoor in the Chest Note Vault. Further alleged that the financial incentive for discharging additional work is purely a temporary measure and need based arrangements of disposal of accumulated notes. Thus, there is no violation of any law. The industrial dispute being individual beyond the matters of its Schedules 2 & 3 of the Industrial Dispute Act 1947 is unmaintainable.

The O.P./Management in their rejoinder has specifically denied.

#### FINDING WITH REASONS

6. In the instant reference, WWI Narmadeshwar Pandey, the Special Assistant at Reserve Bank of India, Patna, WW2 Girish Deo Kumar working as Asstt. Treasure on behalf of the Union concerned, and MWI Jerome Minz, the Asstt. Manager, R.B.I., (Cash Depart), Patna for the O.P./Management have been respectively examined.

The argument of the Learned Union Representative for the Vault Sections Employees of the R.B.I. as per his written notes of it is that the Bank paid all the Class III and IV employees of the Note Examination Sections the incentive amount of Rs. 150/- and Rs. 100/- for performance of their more than 50% work per day; the increase workload of the Note Examination Sections directly affects the chest Note Vault and the defaced Note Vault following the deposit of the increased Notes after the end of the work of the Note Examinations Section comes about in the defaced Note Vault; for the reasons, the Authorities and the workers posted in both the vaults have to over work, but the incentive amount is not paid to them which is discriminatory. For instance Sri Narmadeshwar Pandey, the Coin-Note Supervisor Class II, who was the Asstt. posted in the defaced Note Vault as a member of the Union has also claimed for the incentive amount, but due to not any proceeding of the Bank, the Industrial Dispute has been raised for the reference, and lastly in view of the evidences of the witnesses of the Union in comparison with that of the Management, the claim of Mr. Pandey for incentive amount for his work in Defaced Note Vault is justified, besides for the relief of the cost of the reference in favour of the Organization.

Just contrary to it the contention Mr. A.K.M. Mustaque, the Joint Legal Advisor, the Legal Cell as Representative for Management of Reserve Bank of India, Patna is that the present Union admittedly being unrecognized by the Bank as no locus standi to raise the Industrial Dispute which is not an Industrial one under Sec 2K of the I.D. Act, 1947, rather it is an individual dispute

for one workman - Narmadeshwar Pandey, who has admitted in his cross-examination the execution of any agreement taking place time to time between the Managements and Recognized Associations biding on both the sides. At this point, I am of the view that the right conferred under Sec.36(1)© of the Act can be availed by a worker who is a member of unregistered Trade Union as also to a worker who is not a member of any Trade Union at all whether registered or unregistered as held in the case of Ramkapil Singh Vs .L.C., Patna, reported in 1963(1) Vol.L.J.65. So the reference is not unsustainable.

Further it has been submitted on behalf of the O.P./ Management that as per the fair admission of the workman Narmadeshwar Pandey (WWI) there is no quota for the employees posted in the defaced Note Vault and his duty was to prepare slips for each bag containing defaced Notes and also to make entry in the Register whereas the duty of Class IV Staff is to keep any defaced Note in the bags in the defaced Note Vault where 32 to 35 slips are daily prepared on an average, but the workman has no duty to handle the defaced Notes during the working hours from 10.15 a.m. to 5.13. p.m.; though there is a provision of overtime in the defaced Note Vault he never enjoyed it. Sri Grish Dev Kumar, working as a Asstt.Treasurer (WW2) narrating the working system of the Note Examination Section distinct from that of the defaced Note Vault Section of the Management, has also admitted that in the former Section each staff, namely, Dy. Treasurer, Asstt. Treasurer, Table Asstt.Punching Supervisor Class -IV staff ,Peon and the Durban have got their specific roles; and during his posting as the Coin & Note Examinationer Gr.II at the relevant time, the staff of the said Section were counting the Notes 50% more than their work and the persons in that Section including the staff, the officers and class IV staff were getting extra payments. The evidence of Shri Jerome Minz (MWI) for the Management, stands corroborated by the aforesaid admission of both the witnesses for the workman, disclosing that the process of Note Examination in Vaults, the examination of features of each currency notes, and due to its lengthy process, there is a huge accumulation of soiled currency Notes, so the bank adopted a clean Note policy at the relevant time to reduce the accumulation of soiled currency Notes by introducing afresh currency notes in circulation. Hence, the steps were taken by the Bank to increase the quota work of Coin Note Examination Section by giving financial benefit to them as per the agreement between the Management and the RBI Employees Association, the recognized one of Class III employee of the Bank; on the other hand, maintaining of Register, preparation of voucher that of assigned to the employees concerned of defaced in Note Vault Section of the management where they get overtime for additional work. As such, the claim of the Defaced Note Vault Section employees for financial

compensation like those of the Note-coin Examination Section Employees is not justified.

On perusal and consideration of evidences of both the parties, I find that the case of Class III & IV Employees of the Vault Section of the Management does not fall within the category of nature of their job as per undisputed circular as reported in the Schedule which *prima facie* is applicable to the officers and the staff of the Coin & Note Examination section of the Management.

In result, it is hereby responded and accordingly awarded in the term of the reference that action of management of Reserve Bank of India in not allowing of the scheme of financial compensation as per the central circular no DCM(NPD)/851/9.39/01-02 which is not being extended also to the class III & IV employees of the Vault Sections explaining that increase in work load of note examining section does not proportionally increase the work load of the Vault Sections is quite correct, legal and fair. Hence the workmen in the vault section of the Management are not entitled to any relief.

KISHORI RAM, Presiding Officer

नई दिल्ली, 14 अगस्त, 2014

**का.आ. 2281.**—*औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई के पंचाट (संदर्भ संख्या 62/2010) को प्रकाशित करती है जो केन्द्रीय सरकार को 13/08/2014 को प्राप्त हुआ था।*

[सं. एल-12012/07/2010-आईआर (बी-I)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th August, 2014

**S.O. 2281.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 62/2010) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Mumbai, as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 13/08/2014.

[No. L-12012/07/2010-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT : K.B. KATAKE, Presiding Officer

REFERENCE NO. CGIT-2/62 of 2010

EMPLOYERS IN RELATION TO THE MANAGEMENT  
OF STATE BANK OF INDIA

The Assistant General Manager  
 State Bank of India, Mumbai Zonal Office  
 Region V  
 Madhuli Building, 1st floor  
 Shivsagar Estate  
 Dr. Annie Besant Road  
 Worli, Mumbai 400 019

**AND**

**THEIR WORKMEN**

Shri Gautam Kashiram Bagave  
 Sraddha Rahivasi Sangh  
 Opp. Building No.94, Vikhroli  
 Kannamwar Nagar-2  
 Vikhroli (E) Mumbai

**APPEARANCES:**

FOR THE EMPLOYER : Mr. M. G. Nadkarni, Advocate

FOR THE WORKMAN : Mr. G.R. Naik, Advocate

Mumbai, dated the 27th June, 2014

**AWARD**

The Government of India, Ministry of Labour & Employment by its Order No.L-12012/07/2010-IR (B-I), dated 08.11.2010 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the management of State Bank of India, Vikhroli (E) Branch in terminating the services of Shri Gautam Kashiram Bhagave is legal and justified? If not, what relief the workman is entitled to?”

2. After receipt of the reference, notices were issued to both the parties. In response to the notice, the second party workman filed his statement of claim at Ex-7. According to him he was employee of the first party and working as a Sweeper from 1998 till 15/12/2008. He had worked at Vikhroli Branch continuously and had completed 240 days in every calendar year. He was appointed by the management after complying with the requirement therefor and was appointed on regular basis on permanent post. They used to pay him salary by obtaining his signature on wage register and on vouchers. However his name was not shown on muster roll. Though there was sufficient work available with the first party, the management illegally terminated his services w.e.f. 16/12/2008. Neither they issued him show cause notice nor complied with Section 25 F or 25-G of the Industrial Disputes Act. As the services of workman were terminated illegally, he raised industrial dispute before ALC (C). As conciliation failed, as per the report to that effect, the Central Labour Ministry sent the reference to this Tribunal.

The workman therefore prays that the management be directed to reinstate the second party in the service with full back wages w.e.f. 16/12/2008 and also pray for cost of the reference.

3. The first party management resisted the claim vide its Written Statement at Ex-8. According to them, the second party is neither workman as defined under Section 2 (s) of the I.D. Act nor he is their employee. According to them initially the workman was appointed by local implementation committee as Canteen Boy. He was very irregular in attending his duties. He used to remain absent unauthorisedly and he also used to be missing from duty. He was engaged for cleaning the Vikhroli Branch Office. It was purely on temporary and casual basis. He was paid Rs.50/- per day. They denied all allegations made in the statement of claim. They denied that he was appointed by following recruitment process. According to them, the workman was not appointed by following the recruitment process prescribed for the appointment of the Bank employees. They denied that the workman worked continuously for 240 days every year. They denied that the management has violated the provisions of Section 25 F and 25 G of the I.D. Act. As the workman is not their employee, question of violation of these provisions does not arise. They denied that the services of workman were terminated illegally by the Bank Authority in violation of the provisions of I.D. Act. According to them the reference is not maintainable and the workman is not entitled to any relief. Therefore they pray that the reference be dismissed with cost.

4. Following are the issues for my determination. I record my findings thereon for the reasons to follow:

Sr. no.	Issues	Findings
1.	Whether the second party is workman as defined under Section 2 (s) of the Industrial Disputes Act and whether there exist master servant relationship between the Bank and the workman?	Yes
2.	If yes, whether the termination of services of the workman is legal and justified?	No
3.	If not, what relief the workman is entitled to?	As per order below
4.	What order?	As per order below

**REASONS**

**Issue No.1 :-**

5. In this case, it is pleaded by the first party Bank that initially the second party workman was appointed as a

Canteen Boy. As canteen in the branch is not a statutory canteen, the workman is not employee of the Bank. In support of his argument the ld. adv. for the first party resorted to the Apex Court ruling in State Bank of India V/s. SBI Canteen Employees Union (Bengal Circle) & Ors. (2000) 5 SCC 531 wherein the Hon'ble Court observed that;

“Employees of non-statutory canteen are not employees of principal employer.”

6. In this respect the ld. adv. for the second party submitted that, the workman was not canteen employee. Neither he had worked as a Canteen Boy. Therefore the above ruling cited in that behalf is not applicable to the set of facts of the present case. The ld. adv. pointed out that specific suggestion to that effect was denied by the workman in his cross examination at Ex.12. The ld. adv. for the second party has submitted that the first party Bank has not denied that the workman was working as a Sweeper and he used to clean the bank premises at Vikhroli Branch. He has further pointed out that he was working as Sweeper since 1998 till 16/12/2008. According to the second party he was appointed after following the recruitment process and appointment letter was also issued to him. He was called for interview and was also sent for medical examination. In this respect the ld. adv. for the first party pointed out that the workman has not produced either the copy of paper in which advertisement was published or the letter of appointment or letter of call for interview etc. Therefore he submitted that the version of second party is not supported by any documentary evidence. He further pointed out that the burden is on the workman to prove the fact he alleges. In support of his argument, the ld. adv. resorted to the Delhi High Court ruling in Automobile Association Upper India V/s. P.O. Labour Court II and Anr. 2006 III LLJ 929 wherein the Hon'ble Court observed that;

“.... the workman had to establish the case set up by him before the Industrial Adjudicator by evidence, oral and documentary.”

7. In this respect it was submitted on behalf of the workman that his appointment letter, letter of call and all other documents were destroyed in the heavy rain and flood of the year 2005. Therefore he could not produce any document. In this respect I would like to point out that it is the case of the workman himself that the management used to pay him by obtaining his signature on pay register and on vouchers and his name was not reflected on the muster roll. It indicates that he was not appointed by following the recruitment process. Furthermore he could have obtained the copy of issue of the newspaper wherein the advertisement inviting applications was published. There is also no letter of termination placed on record. Furthermore the second party has not even given his monthly pay and allowances

either in pleadings or in his affidavit. On the other hand from the documents with list Ex-10 it is clear that he was paid Rs. 50 per day. A person appointed by following recruitment procedure can never be engaged as a daily wager. Looking into these facts and circumstances on record it appears that he was working as a daily wager and was not appointed by following the procedure prescribed for recruitment of the staff.

8. In this respect it is the case of the workman that he worked continuously from 1998 till the date of his termination i.e. 16/12/2008. It is also specifically pleaded and contended in the affidavit that he had worked 240 days in each year. Therefore he is entitled to the protection under Section 25 F of the I.D. Act. In this respect ld. adv. for the first party submitted that, the burden is on the workman to prove that he had worked for 240 days continuously in a calendar year, which workman failed to prove. In support of his argument the ld. adv. resorted to the following Apex Court rulings:

- (1) Surendranagar Distt. Panchayat & Anr. V/s. Jethabhai Pithambar Bhai (2005) 8 SCC 450, wherein the Apex Court on the point observed that;

“The burden of proof lies on the workman to show that he had worked continuously for 240 days in the preceding one year prior to his alleged retrenchment and it is for the workman to adduce evidence apart from examining himself to prove the factum of being in employment of the employer.”

The same view is reiterated by the Hon'ble Apex Court in

- (2) Range Forest Officer V/s. S.T. Hadimani 2002 LAB. I.C. 987 (SC),
- (3) Surendranagar Distt. Panchayat & Anr V/s. Dayabhai Amarsingh 2005 8 SCC 750,
- (4) G.M. , B.S.N.L. & Ors. V/s. Mahesh Chand 2008 II LLJ633.

9. In this respect the ld. adv. for the second party pointed out that the fact is not disputed that the second party workman was engaged by the management and he was working as a Sweeper. It is pointed out that it was not specifically denied in the cross examination of the workman at Ex. 12 that he was working with the Bank since 1998. In this respect the ld. adv. for the second party further pointed out that the witness of the management Mr. Vijay Chirutkar stated in his cross at Ex. 16 that he does not know whether the workman was working since 1998. He further states that he does not know whether he was recruited in 1998. As this witness says on oath that he does not know whether the workman is working since 1998, his further denied that workman had worked continuously for 10 years and he worked for more than 240 days every year is

unacceptable. The management has disputed that workman was working as Sweeper. According to them initially he was engaged as a Canteen Boy and subsequently engaged on casual and daily basis for cleaning the office of the Bank at Vikhroli. The workman has produced on record xerox copies of receipts of payment he worked in the year 2005-2006 and the payment receipts for working continuously from 30/10/2008 to 10/11/2008. They are filed with list Ex-10. According to him the earlier pay vouchers were destroyed and some were lost. From the pleadings and evidence on record it is revealed that the version of the workman is corroborated by these vouchers with list Ex-10. Whereas the version of the management appears skin saving. In the circumstances and specially from the replies given by management witness in cross examination, I come to the conclusion that, the workman was working since 1998 and has worked more than 240 days in each calendar year.

10. In this respect it was submitted on behalf of the management that though workman has completed 240 days he was a daily wager and therefore cannot claim any protection as he was not ‘workman’ within the meaning of Section 2 (s) of the I. D. Act. In support of his argument the Id. adv. resorted to Single Judge ruling of Bombay High Court in Narayan S/o. Girjuba Gadhekar V/s. Chairman, Silod Taluka Co-op. Marketing Society Ltd. & ANR 2007 (2) Mh. L.J. 655 wherein the Hon’ble Court in para 11 of the judgement observed that;

“... the employment of the petitioner was purely temporary and seasonal. He cannot be regarded as a ‘workman’ within the meaning of Section 2 (s) of the Industrial Disputes Act.”

11. In the case at hand the workman is not a seasonal labourer as in the above referred case. Furthermore I would also like to point out that work of cleaning the Bank is perennial type of work. It cannot be called seasonal. Thus the ratio laid down in the above ruling is not attracted to the set of facts of the present case. In the case at hand the workman was working with the first party Bank at its Vikhroli Branch since 1998 continuously. Neither he was employed through any contractor nor was working for any other person. He worked upto 2008. In the circumstances I hold that the second party is ‘workman’ as defined under Section 2 (s) of the I.D. Act and I also hold that he was employee of the first party and there exists employee – employer relationship between them. Accordingly I decide issue no.1 in the affirmative.

#### **Issue no. 2 & 3 :-**

12. As the second party workman was employee of the first party and he had worked continuously for more than 240 days in a calendar year he was entitled to the protection under Section 25 F of the I.D. Act. Therefore I hold that his termination cannot be said just and legal. In this respect

the Id. adv. for the second party submitted that as the services of second party workman was terminated illegally he should be reinstated in the service. In this respect Id. adv. for the first party submitted that, as second party workman was not appointed by following recruitment process, therefore his services cannot be regularised and he cannot be reinstated. In support of his argument the Id. adv. resorted to Apex Court ruling in Indian Drugs and Pharmaceuticals Ltd. V/s. Workmen, Indian Drugs and Pharmaceuticals Ltd. 2007 ILLJ 580 SC wherein the Hon’ble Court in para 34 of the judgement observed that;

“Unless the appointments are made by following the rules such appointees do not have any right to claim permanent absorption in the establishment.”

13. The Id. adv. also resorted to another Apex Court ruling in M.P. Housing Board & Anr. V/s. Manoj Srivastava 2006 AIR SCW 1235 wherein the Hon’ble Court observed that;

“It is now well settled when a post is not sanctioned, normally, direction for reinstatement should not be issued. Even if some posts were available, it is for the Board or the market committee to fill up the same in terms of existing rules.”

14. The same principle was reiterated by Apex Court in State of Madhya Pradesh & Ors. V/s. Yogesh Chandra Dubey & Ors. 2007 I CLR 137 wherein on the point of regularisation of services of such employees Hon’ble Court observed that;

“Regularisation is not a mode of appointment. If any recruitment is made by way of regularisation, the same would mean a back door appointment which does not have any legal sanction.”

15. In the light of these rulings it is clear that neither the workman can be reinstated in the service nor his services can be regularised.

16. In this respect the Id. adv. for the first party submitted that at the most for violation of Section 25-F of the I.D. Act, only compensation in lieu of reinstatement can be granted. In support of his argument the Id. adv. resorted to Punjab and Haryana High Court ruling in Nepal S/o Sh. Khichhu Ram Vs Presiding Officer Labour Court III, Faridabad & Anr. 2011 II LLJ 80 wherein Hon’ble Court observed that;

“Termination of workman’s service was in violation of Section 25 F of I.D. Act but he was entitled only to compensation in lieu of reinstatement.”

17. The Id. adv. also cited the Apex Court ruling in Mahboob Deepak V/s. Nagar Panchayat, Gajrula & Anr 2008 I LLJ 855 (SC) wherein the services of daily wager were terminated illegally. In that respect the Hon’ble Court observed that;

"It is now well settled by a catena of decisions of this court that in a situation of this nature instead and in place of directing reinstatement with full back wages, the workman should be granted adequate monetary compensation."

18. The ld. adv. also resorted to another Apex Court ruling in Bharat Sanchar Nigam Ltd. V/s Man Singh 2011 III CLR 902 wherein the Hon'ble Court in respect of illegal retrenchment, observed that;

"In view of the aforesaid legal position and the fact the respondents workmen were engaged as daily wagers and they had merely worked for more than 240 days, in our considered view the relief of reinstatement cannot be said to be justified and instead, monetary compensation would meet the end of justice."

19. In the light of the facts and circumstances of the case, it is clear that the service of workman was terminated in violation of Section 25-F of I.D.Act. Therefore in the light of above rulings instead of reinstatement with back wages, I think it proper to award adequate compensation to the workman. In this respect I would like to take in to account that the workman had worked for about 10 long years as a daily wager for a very meagre amount. In the circumstances while fixing the amount of compensation, I think it proper to award an amount of Rs.1,50,000 to the workman. Accordingly I partly allow the reference and proceed to pass the following order:

#### ORDER

- (i) Reference is partly allowed with no order as to cost.
- (ii) The first party is directed to pay to the second party workman compensation to the tune of Rs.1,50,000.

Date: 27.06.2014

K. B. KATAKE, Presiding Officer

नई दिल्ली, 14 अगस्त, 2014

**का.आ. 2282.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार धनलक्ष्मी बैंक प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 42/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 13/08/2014 को प्राप्त हुआ था।

[सं. एल-12012/35/2012-आईआर (बी-I)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th August, 2014

**S.O. 2282.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 42/2012)

of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Dhanalakshmi Bank and their workmen, received by the Central Government on 13/08/2014.

[No. L-12012/35/2012-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 9th July, 2014

**Present :** K. P. PRASANNA KUMARI, Presiding Officer  
**Industrial Dispute No. 42/2012**

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Dhanalakshmi Bank and M/s Teamlease Services (P) Ltd. and their workman]

#### BETWEEN

Smt. R. Ramaprabha	: 1st Party/ Petitioner
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#### AND

1. The General Manager,	: 2nd Party/ 1st Respondent
Dhanalakshmi Bank, Zonal Office, Om Shakthi Towers, 163, Anna Salai, Chennai-600002	
2. The Sr. Vice Presiding	: 2nd Party/ 2nd Respondent
(Regulatory), M/s Teamlease Services (P) Ltd., No. 81, Vukan Towers, Thirumalai Pillai Road, T. Nagar, Chennai-600017	

#### Appearance:

For the 1st Party/ : M/s. K.M. Ramesh, Advocates  
Petitioner

For the 2nd Party/ : M/s. S. Namasivayam, S. Rajkumar,  
1st Management Advocates

For the 2nd Party/ : Set Ex-parte  
2nd Management

#### AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/35/2012-IR (B-I) dated 18.07.2012 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the management of M/s. Dhanalakshmi Bank Ltd. and their Contractor M/s. Teamlease Services Private Limited in terminating the service of Smt. R. Ramaprabha, Marketing Executive, w.e.f. 31.01.2010 by the Bank and w.e.f. 19.07.2011 by the Contractor, is legal and justified? To what relief Smt. Ramaprabha is entitled?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 42/2012 and issued notice to both sides. Both sides entered appearance through their counsel and filed their Claim and Counter Statement respectively. After the Counter Statement was filed, the petitioner has filed rejoinder.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner was appointed as Marketing Executive by the First Respondent by order dated 13.07.2007 on a consolidated monthly salary of Rs. 8,000. Though the appointment was on contract for one year, the petitioner continued in service till 31.01.2010, the date of termination of the service. The petitioner had to report for work at 0900 AM and had to work till 0600 PM. The First Respondent had been doing service by business arrangement with Mutual Funds, private financial institutions and private insurance companies. After reporting for duty at 0900 AM, the petitioner had to go out for canvassing for Savings Bank Accounts, Current Accounts, etc. After returning to the office she had to do the job of helping the customers in their business transactions with the Bank. The petitioner had been discharging her duties diligently. On 31.01.2010, the Branch Manager of the First Respondent told her that her services were being terminated since the marketing work was to be outsourced. She was also told that she would be given employment in the same category by the Second Respondent. She was assured that she would be absorbed in a suitable position in the bank's service when recruitment is made. Believing these words, the petitioner accepted employment with the Second Respondent. While the petitioner was waiting for absorption in the First Respondent Bank, she was served with an order by the Second Respondent terminating her service. She was informed that her service was terminated as per the inputs received from the First Respondent. The petitioner had sent several letters to the First Respondent requesting for reinstatement but she has not received any reply. The petitioner had raised the dispute in these circumstances. The action of the First Respondent in terminating the service of the petitioner through the Second Respondent is illegal and unjust. The petitioner had not committed any misconduct as alleged by the Second Respondent. The petitioner had worked only for the First Respondent. The so-called arrangement by the Second Respondent was sham and nominal. The work of the petitioner was

supervised only by the officials of the First Respondent Bank. An order may be passed holding that the action of the First Respondent in terminating her service with effect from 31.01.2010 and by the Second Respondent from 19.07.2011 is illegal and not justified and also directing the First Respondent to reinstate the petitioner in service with continuity of service, back wages and other attendant benefits.

4. The First Respondent has filed Counter Statement contending as follows:

The dispute is not maintainable as against the First Respondent as there is no privity of contract between the petitioner and the First Respondent. She is not a workman as defined under Section-2(s) of the Industrial Disputes Act. The petitioner was appointed on contract basis as Marketing Executive by the First Respondent by letter dated 13.07.2007. Her duty included canvassing the clients for opening Saving Bank Accounts, Current Accounts, Deposit Accounts, etc. She was appointed on contract basis for a period of one year only. Her service automatically ceased on completion of period of contract. However, she was orally permitted to continue to work till January, 2010. The First Respondent decided to outsource the marketing work to the Second Respondent. Consequently, the petitioner was left without any work under First Respondent and she was recommended to the Second Respondent on humanitarian grounds. The Second Respondent had appointed the petitioner in their service by letter dated 01.02.2010. Her salary and other statutory benefits were given by the Second Respondent from February, 2010. During her tenure with the second respondent the petitioner had opened current account and savings account without necessary payment for opening account but with photocopies of altered cheque leaves of other banks and without presenting the cheques at the bank. The allegations made by the petitioner against the First Respondent in her Claim Statement are all denied. The petitioner is not entitled to any relief from the First Respondent.

5. Though the Second Respondent has remained absent at the subsequent stage of proceedings, he has filed Counter Statement contending as below:

The petitioner was appointed as Marketing Executive with the Second Respondent on 01.02.2010 for a period of one year. As per the terms and conditions of appointment, she was liable to be terminated for any performance inconsistent with the contractual obligations and the contract which are detrimental to the interests of the client of the employer. As per the appointment letter any dispute between the petitioner and the Second Respondent is to be referred to Arbitrator. So the dispute is not maintainable before this forum. It is incorrect to state that the appointment given to the petitioner was in continuation of the work rendered with the First

Respondent. The experience of the petitioner with the First Respondent was counted for her appointment by the Second Respondent. On 01.01.2009 the Second Respondent had entered into an agreement with the First Respondent to provide service with a specific term that all the persons employed by the Second Respondent for rendering service to the First Respondent shall be their employees solely liable and responsible for the payments of their salaries and other statutory benefits. The petitioner indulged in opening Current Accounts and Savings Bank Account using bogus cheques by forging signature. The fraud was exposed by the First Respondent and the First Respondent requested the Second Respondent to terminate the petitioner. So the petitioner was terminated from service by termination letter dated 19.07.2011 because of her misconduct. The petitioner was given adequate opportunity to explain her cause before ordering termination. The contention of the petitioner that no Show Cause Notice was given before the order of termination is without basis. As per the terms of the appointment letter issued by the Second Respondent he had power to terminate the petitioner without any notice or enquiry. The petitioner is not entitled to be reinstated in the service of the First Respondent.

6. The petitioner has filed a rejoinder denying the allegations made in the Counter Statement of First and Second Respondents and also reiterating her case in the Claim Statement.

7. The evidence in the case consists of oral evidence of petitioner examined as WW1, evidence of MW1 and also documents marked as ext.W1 to Ext.W14 and Ext.M1 to Ext.M6.

#### **8. The points for consideration are:**

- (i) Whether the action of the Respondents in terminating the service of the petitioner is legal and justified?
- (ii) What if any is the relief to which the petitioner is entitled?

#### **The points**

9. The facts of the case are not much in dispute. The petitioner had been appointed by the First Respondent as Marketing Executive by order dated 13.07.2007 which is marked as Ext.W1, for a consolidated salary of Rs. 8,000. Though as per Ext.W1, the period of appointment is one year the petitioner continued to be in the employment of First Respondent till 31.01.2010. After this also, she continued to do the work of Marketing Executive itself for the First Respondent though it was as if she was engaged through the Second Respondent, a contractual agency until 19.07.2011 on which date she was served with an order of termination by the Second Respondent. According to the petitioner, this later arrangement was in between the first and second respondents but it did not

affect the nature of the work or her service conditions in any manner. The petitioner has alleged that she was terminated from service by the Second Respondent without any notice or enquiry and without any justification. She has stated in her Claim Statement that all along the First Respondent was of the stand that she will be regularized in service and that employment through the Second Respondent was only to make things legal. On the other hand it has been contended by the First Respondent that after termination of the petitioner on 31.01.2010 there was no employer-employee relationship between the petitioner and the First Respondent. The stand of the First Respondent is that it has no liability to reinstate the petitioner since she was not under the employment of First Respondent at the time of termination.

10. The First Respondent has raised a technical contention in its counter statement that in any case the petitioner is not a "workman" coming under the definition of Section-2(s) of the ID Act as she had been employed as Marketing Executive and therefore she is not entitled to raise the dispute under the ID Act. Before going into the merits of the case this contention of the First Respondent is to be considered.

11. The above contention raised by the First Respondent seems to be on the ground that the name of the post of the petitioner is Marketing Executive which is to be assumed to be a position which is managerial or supervisory in nature. It is the well established position of law that mere nomenclature of the post is not sufficient to determine whether a person comes under the definition of workman under the Section-2(s) of the ID Act or not. What exactly was the nature of the work of the petitioner? Ext.W1, the order of appointment gives the name of the job as Marketing Executive. It does not state what exactly is the nature of the job. The petitioner has stated in her Claim Statement as well as in the affidavit filed by her that she had to report for work in the branch of First Respondent at T. Nagar at 0900 AM and then to go out for canvassing for opening Savings Bank Accounts, Current Account and Deposit Accounts in T. Nagar and other surrounding areas. She has further stated that after returning to the office she had to do the job of helping the customers in their business transactions with the Bank. It is seen from the evidence given by MW1 also that the petitioner was doing the work of canvassing deposits for the First Respondent Ext.W2 would show that the petitioner was honored for her excellent performance in canvassing business for T. Nagar Branch.

12. Though it is contended in the counter statement of the First Respondent that the petitioner would not come under the definition of workman, it has not taken any effort to prove that the petitioner was working in a managerial or supervisory capacity. The counsel for the petitioner has referred to the decision of the Madras High Court in

N. KUMARESAN VS. PRESIDING OFFICER, LABOUR COURT AND ANOTHER reported in 2001 2 LLJ 369 where it was held that it is the duty of the management to establish that the employee performed duties that were supervisory in nature. The Apex Court has held in the decision in ARKAL GOVIND RAJ RAO VS. CIBA GIEGY OF INDIA LTD, BOMBAY reported in AIR 1985 SC 985 that in deciding whether a person is a workman the Court must find out what are the primary and basic duties of the concerned and if he is incidentally asked to do some other work which may not necessarily be in tune with the basic duties, his additional duties cannot change the character and status of the person concerned. In fact in the present case there is no case for the Respondent that the petitioner has been doing any job which is managerial or supervisory in nature.

13. The petitioner though conferred with the position of Marketing Executive which looks like an impressive one, it could be seen that except in the nomenclature it is not impressive at all. She was employed for a consolidated salary of Rs. 8,000/- a month. After reporting at the office at 0900 AM she is to go out to rope in persons to be made customers of the Bank. She had to wander around in search of persons who are willing to become customers of the bank. In the words of the First Respondent itself, as seen from Ext.W2 the petitioner has rendered excellent performance in canvassing business for the branch. She has canvassed around 600 CASA Accounts and has done Metlife business for Rs. 15.00 lakhs. There is nothing managerial or supervisory in such work so definitely the petitioner will come under the definition of workman under Section-2(s) of ID Act.

14. There is a case for the Respondents that the petitioner has been terminated from service on account of her misconduct. It is stated in the Counter Statement of both Respondents that she had opened accounts in the name of a particular individual by forging her signature and issued bogus cheques. There is no case for the Respondents that any enquiry has been conducted before terminating the service of the petitioner for misconduct. Though it is stated in the Counter Statement of the Second Respondent that notice has been given to the petitioner regarding his misconduct and she has been given opportunity to explain her side, no such notice is seen produced. Before this Court itself the Respondents have not made any effective attempt to prove that any misconduct has been committed by the petitioner. MW1 who is a Chief Manager of the First Respondent Bank examined on its behalf has no personal knowledge of the facts of the case. She had no occasion to be the Manager of the Bank in which the petitioner has been working. She has stated that she is giving evidence on the basis of records only. There is nothing to show what exactly was the misconduct allegedly committed by the petitioner. No acceptable evidence is adduced regarding this. Ext.M2 to

Ext.M6 are just some internal correspondence of the First Respondent which are not proved at all. So there is absolutely no basis to show that the petitioner had committed any misconduct.

15. It could be seen from the evidence that though at the time of termination the petitioner was projected as an employee of the Second Respondent, actually she was continuing the same job she was earlier doing for the First Respondent i.e. canvassing of accounts for the First Respondent. Though her initial appointment was for a period of one year as per Ext.W1, even as admitted by the First Respondent she continued in the employment of the First Respondent even after expiry of this period one year. She continued in the same position until 31.01.2010. After this, she was treated as an employee of the Second Respondent though in effect she was not. This is evident from the version of the petitioner and even the admission made by MW1 during her cross-examination. MW1 has admitted that after 31.10.2010 also the petitioner was reporting to T. Nagar branch but according to her as an outsourced employee and was discharging the very same work. She continued to canvass deposits for the First Respondent after this also.

16. The documents also would reveal the case of the petitioner that it was by way of an arrangement only that she was shown as an employee of the Second Respondent. In fact the documents would reveal that the petitioner was made to believe that she would be given opportunity to participate in the examination for absorption in the bank. It is revealed from Ext.W2 which is written by the Chief Manager in the form of congratulatory message to the petitioner that her application for the post of Junior Officer will be considered favorably and she will be permitted to write the examination for the same. It was after all this an appointment letter was given to her by the Second Respondent on 01.02.2010 which is marked Ext.W3. Consequent to receiving this, the General Secretary of the Union of the petitioner has written a letter to the General Manager of the First Respondent. In answer to this an assurance is seen given stating that the transfer to M/s Teamlease, the Second Respondent is done for the purpose of statutory compliance only. MW1 has stated that the work of Marketing Executive still exists. Even from the manner in which the petitioner was terminated from service by the Second Respondent it could be seen that the Second Respondent was only a namesake and that the First Respondent was actually running the show. Ext.W9 the letter written by the Second Respondent to the petitioner shows that it was as instructed by the First Respondent that the petitioner has been terminated. There is no case for the Second Respondent that it was a registered contractor and was competent to supply persons on contract basis. All these would show that it was the First Respondent itself who had continued to engage the petitioner though under the guise of doing it through the

Second Respondent. Even otherwise, even at the time of termination dated 31.01.2010 if any the First Respondent had not complied with the provisions of the Act. Apparently, from 13.07.2007 the petitioner had been working with the First Respondent continuously. In spite of this, she was not given any notice of termination. On the other hand, she was shown to be under the employment of the Second Respondent and allowed to continue in the service of the First Respondent. In the circumstances it is only proper that the petitioner is reinstated in the service of the First Respondent. However, considering the circumstances, I am not inclined to allow any back wages.

Accordingly an award is passed as follows:

The First Respondent shall reinstate the petitioner in service within a month.

The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 9th July, 2014)

K. P. PRASANNA KUMARI, Presiding Officer

#### **Witnesses Examined :**

For the 1st Party/ : WW1, Smt. R. Ramaprabha  
Petitioner

For the 2nd Party/ : MW1, Sri G. Bhanumurthy  
Management

#### **Documents Marked :**

##### **On the petitioner's side**

Ex.No.	Date	Description
Ex.W1	13.07.2007	Copy of Appointment letter issued to the petitioner by the 1st Respondent with enclosures
Ex.W2	04.04.2009	Copy of e-mail from 1st Respondent to the petitioner
Ex.W3	01.02.2010	Copy of appointment letter issued to the petitioner by the 2nd Respondent
Ex.W4	xxx	Copy of letter from Petitioner to the 1st Respondent
Ex.W5	10.07.2010	Copy of letter from Petitioner to the 1st Respondent
Ex.W6	09.07.2011	Copy of letter from Petitioner to the 1st Respondent with copy to 2nd Respondent
Ex.W7	13.07.2011	Copy of e-mail from Petitioner to the 1st Respondent

Ex.W8	13.07.2011	Copy of e-mail from Petitioner to the 1st Respondent
Ex.W9	19.07.2011	Copy of letter from 2nd Respondent to the Petitioner
Ex.W10	20.07.2010	Copy of letter from Petitioner to the 1st Respondent
Ex.W11	23.08.2011	Copy of letter from Petitioner to the 2nd Respondent
Ex.W12	23.08.2011	Copy of e-mail from Petitioner to the 2nd Respondent
Ex.W13	05.09.2011	Copy of Petition u/s 2-A of the ID Act filed by the petitioner before the Asstt. Labour Commissioner (Central), Chennai
Ex.W14	05.12.2011	Copy of reply filed by the Petitioner before the Asstt. Labour Commissioner (Central), Chennai

#### **On the Management's side**

Ex.No.	Date	Description
Ex.M1	-	Power of Attorney
Ex.M2	13.07.2007	Copy of the Appointment Letter to the Petitioner
Ex.M3	05.07.2011	Copy of the mail sent by the internal auditor of 1st Respondent to the Credit Head and Vigilance Head of the 1st Respondent
Ex.M4	06.07.2011	Copy of the mail sent by the internal auditor of 1st Respondent to the Vigilance Head of the 1st Respondent
Ex.M5	08.07.2011	Copy of the mail sent by the internal auditor of 1st Respondent to the Vigilance Head of the 1st Respondent
Ex.M6	18.07.2011	Copy of the mail sent by the Credit Head of 1st Respondent to the HR Head of the 1st Respondent

नई दिल्ली, 14 अगस्त, 2014

**का.आ. 2283.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ इंडॉर प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 18/06) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/08/2014 को प्राप्त हुआ था।

[सं. एल-12012/200/2005-आईआर (बी-1)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th August, 2014

**S.O. 2283.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 18/06) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of Indore, Head Office and their workmen, received by the Central Government on 14/08/2014.

[No. L-12012/200/2005-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR**

**NO. CGIT/LC/R/18/06**

Presiding Officer : SHRI R. B. PATLE

General Secretary,  
Daily Wages Bank Employees Association,  
9, Sanwer Road, Ujjain (MP) ....Workman/Union

#### Versus

General Manager (Operations),  
State Bank of Indore,  
Merged as State Bank of India  
Local Head Office,  
Hoshangabad Road,  
Bhopal .....Management

#### AWARD

Passed on this 9th day of July 2014

1. As per letter dated 23-5-06 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/200/2005-IR(B-I). The dispute under reference relates to:

“Whether the action of the management of General Manager (O), State Bank of Indore in removing Shri Anandilal Vaastri from his service w.e.f. 10-1-04 is justified? If not, to what relief the workman is entitled for?”

2. After receiving reference, notices were issued to parties. Workman submitted statement of claim at Page 2/1 to 2/5. Case of workman is that he was engaged as permanent peon on 14-10-06 by Branch Manager Lateri on wages Rs.60/- per day. He was continuously working with devotion. He was paid wages deducting wages for Sunday and declared holidays. Workman further submits that his services were discontinued from 10-1-04. Though he completed 240 days continuous service, he was not paid retrenchment compensation, termination notice was not

issued to him. His services were not issued to him. His services were terminated in violation of Section 25-F,G,H of I.D.Act. on such ground, workman prayed for his reinstatement with consequential benefits.

3. IIInd party filed Written Statement at page 5/1 to 5/11. Preliminary objection is raised by IIInd party that workman had not completed 240 days continuous service preceding his termination. The reference is not tenable. The reference is vague. There is no employer employee relationship. Any recruitment process was not followed while engaging workman. That Shri Ram Nagwanshi is a dismissed employee and Secretary of Dainik Vetal Bhogi Bank Employees Association. He was dismissed from service of the Bank on 5-12-2001. He is not competent to represent the workman. IIInd party reiterates that it has service regulations for recruitment of Class III, IV employees framed by the Govt. of India. The appointments of sub-staff, peon, daftary are made adopting recruitment process issuing publication in newspapers. Names of candidates are sponsored through Employment Exchange. Such procedure was not followed while engaging workman. By raising dispute workman wants back door entry. Workman was engaged as casual worker for 2-3 hours per day for cleaning work. Amount agreed was paid to him. Workman has not completed 240 days service preceding his termination. Engaging services for few hours of casual employee doesnot give any right to the workman. The discontinuation of workman is covered under Section 2(oo)(bb) of I.D.Act. The documents produced by workman pertains to payments made to various parties and not to the workman above,. Workman is committed to enter in employment in Bank through back door entry. IIInd party referred to ratio held in various cases by Supreme Court, High Court. It is submitted that workman is not entitled to any of the reliefs claimed by him.

4. Workman filed rejoinder at Page 6/1 to 6/2 reiterating his contentions in statement of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- |  |                     |
|--|---------------------|
| (i) Whether the action of the management of General Manager (O), State Bank of Indore in removing Shri Anandilal Vaastri from his service w.e.f. 10-1-04 is justified? | In Negative         |
| (ii) If not, what relief the workman is entitled to?”  | As per final order. |

#### REASONS

6. Workman is challenging termination of his services for violation of Section 25-F, G, H of I.D. Act claiming that he completed more than 240 days continuous service

preceding his termination from 11-1-04. Workman filed affidavit of his evidence supporting his contentions in statement of claim. Since 14-10-02, he was working more than 240 days. His services were discontinued from 10-1-04 without notice. Retrenchment compensation was not paid to him. However workman has not made available for his cross-examination, his evidence was closed on 24-12-2010. As such his evidence cannot be considered in support of his claim. However the documents are produced on record Exhibit W-1(1 to 37) shows payment of wages to the workman. Those documents shows payment of wages made on different dates to the workman. Document Exhibit W-2 is copy of register of daily payments. He payments made to workman on different dates shows that wages for more than 222 days were paid to the workman. Section 25(B) of I.D.Act provides continuous service for one year, Sundays and paid holidays are required to be counted by considering continuous service. If 52 Sundays are counted, working days of workman comes more than 240 days. The services of workman was terminated without notice.

7. Management's witness Shri Ashok Kumar Vyas in his cross-examination was unable to tell working days of workman. He was also unable to tell whether retrenchment compensation, termination notice was given to the workman. Management's witness in his cross-examination admits that workman had filed proceeding for recovery of bonus. He has admitted payment vouchers W-1(1 to 37). That workman was not appointed from regular post. Workman was working one hour morning, one hour evening. The attendance register is not produced by workman. His evidence is not supported by any document. On the other hand, though workman has not entered in witness box, W-1, W-2 shows his working days. As stated above, the working days of workman are more than 240 days if Sunday is included. Therefore termination of service of workman is not legal and proper. For above reasons, I record my finding in Point No.1 in Negative.

8. Point No.2- In view of my finding on Point No.1, termination of service of workman is in violation of Section 25-F of I.D.Act, question arises whether workman is entitled for reinstatement with back wages. Workman was engaged as casual employee. Recruitment process was not followed. His name was not sponsored through Employment Exchange. Therefore relief of reinstatement in the matter would not be proper.

9. Union Representative Shri Ram Nagwanshi relies on ratio held in case of

Samishta Dube versus City Board, Etawah and another reported in 1999(81)FLR-746 has no direct bearing to facts of present case as the evidence on record shows that workman completed 240 days service.

Shri Ram Nagwanshi also relies on ratio held in case of Regional Manager, SBI versus Rakesh kumar Tewari

reported in 2006(108)FLR 733. Their Lordship of the Apex Court held Section 25-H proceeds on assumption that retrenchment has been validly made. Statutory obligation is casted on employer to give opportunity of retrenched employee.

Though workman has filed affidavit of evidence he has not entered in witness box for cross-examination, his evidence cannot be considered. The ratio held in the above cited case cannot be beneficially applied.

In case of Jaipur Development Authority versus Ramsahai and another reported in 2007(1) Supreme Court Cases (L&S) 518, their Lordship dealing with Section 25-G, H of I.D.Act held requirement of continuous work in terms of Section 25 B of I.D.Act is not requirement under Section 25-G H of I.D. Act.

Workman was hardly working for about 16 months. Considering short tenure of his working and violation of Section 25-F of I.D. Act in discontinuing his service, compensation Rs. 25,000/- would be appropriate relief. Accordingly I record my finding in Point No.2.

10. In the result, award is passed as under:-
- (1) The action of the management of General Manager (O), State Bank of Indore in removing Shri Anandilal Vaastri from his service w.e.f. 10-1-04 is legal and proper.
- (2) IIInd party is directed to pay compensation Rs.25,000/- to the workman within 30 days from the date of publication of award.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 14 अगस्त, 2014

**का.आ. 2284.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एम एस लक्ष्मी विलास बैंक लि प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 59/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/08/2014 को प्राप्त हुआ था।

[सं. एल-12012/109/2012-आईआर (बी-I)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th August, 2014

**S.O. 2284.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 59/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute

between the management of M/s. Lakshmi Vilas Bank Ltd. and their workmen, received by the Central Government on 14/08/2014.

[No. L-12012/109/2012-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT  
CHENNAI**

Tuesday, the 22nd July, 2014

**Present :** K. P. PRASANNA KUMARI, Presiding Officer

**Industrial Dispute No. 59/2013**

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Lakshmi Vilas Bank Ltd. and their workman]

**BETWEEN:**

Sri R. Thiruvengadam : 1st Party/Petitioner

**AND**

The Management : 2nd Party/Respondent  
M/s Lakshmi Vilas Bank Ltd.  
Administrative Office  
Karur-639006

**Appearance:**

For the 1st Party/ : Sri J. Muthukumaran, Advocate  
Petitioner

For the 1st Party/ : M/s T.R. Sathiyamohan,  
Respondent Advocates

**AWARD**

The Central Government, Ministry of Labour & Employment, vide its Order No. L-12012/109/2012-IR(B-I) dated 16.05.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of M/s Lakshmi Vilas Bank Ltd. imposing termination of service on Sri R. Thiruvengadam is justified or not?  
If not, to what relief the workman is entitled to?

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID No. 59/2013 and issued notices to both sides. Both sides have appeared through their Counsel and filed Claim and Counter Statement respectively.

3. The averments in the Claim Statement in brief are as below:

The petitioner joined the service of the Respondent Bank as Sub-Staff in the year 1981. He had passed ESLC Examination at that time. He passed 10th Standard in 1993. He did his BA Degree Course through Correspondence Course from Annamalai University. On the basis of the degree obtained, the petitioner was promoted as Clerk. While the petitioner was serving in Muthur Branch of the Respondent Bank as Clerk, he was issued with a Suspension Order stating that he has submitted bogus degree certificate alongwith mark sheets and has defrauded the bank. Simultaneously, a charge sheet was also issued to him by the Disciplinary Authority on the same allegation. After enquiry the Enquiry Officer found the petitioner guilty of the charge. The Disciplinary Authority imposed punishment of removal from service on the petitioner on the basis of the report of enquiry. The appeal filed by the petitioner against this order was dismissed. The dispute is raised on account of this. The petitioner has not committed the misconduct alleged. Even assuming that the charge against the petitioner has been proved, the option of the bank was to revert the petitioner as Sub-Staff to which post he was originally appointed. An order may be passed holding that the action of the Respondent in terminating the petitioner is unjustified and directing the Respondent to reinstate the petitioner in service with full back wages, continuity of service and other benefits.

4. The Respondent has filed Counter Statement contending as follows:

Sometime prior to 1998 the Respondent had agreed to introduce two channels of promotion from Sub-Staff to Clerk, one general channel of seniority-cum-merit and another, graduates automatic eligibility for promotion. The petitioner who had joined the service of the bank in 1989 applied for promotion to Clerk representing that he had obtained a BA Degree. Based on this representation he was promoted as Clerk in the year 1998. In the year 2000 the Bank received information that some of the promotees as Clerks had produced false degree certificates. The bank wrote to the concerned universities and it came into light that some of the Sub-Staff including the petitioner who were promoted had produced false degree certificates. The Registrar of Annamalai University, Chidambaram had informed the Respondent that the provisional certificate and two mark lists produced by the petitioner for the purpose of promotion are fake and fraudulent. A charge sheet was issued to the petitioner charging him for misconduct of having produced false certificate. On conduct of domestic enquiry the Enquiry Officer has reported that the charge against the petitioner is proved. The punishment of dismissal from service was imposed on the petitioner. The petitioner had produced false certificate for getting automatic promotion even though he was aware that he had not attended the examination. The petitioner is not entitled to any relief.

5. The evidence in the case consists of documents marked as Exts.W1 to Exts.W20 and Exts.M1 to Exts.M16. No oral evidence was adduced on either side.

6. The points for consideration are:

- (i) Whether the action of the management in imposing the punishment of termination from service on the petitioner is justified?
- (ii) What, if any, is the relief to which the petitioner is entitled?

### The Points

7. The petitioner who had joined the service of the Respondent Bank in 1989 is alleged to have obtained promotion to the post of Clerk on the basis of a bogus provisional certificate and mark sheets produced by him. The Respondent Bank who has subsequently found out that the certificate and mark sheets are bogus had initiated disciplinary action against him and terminated him from service on the basis of the report of domestic enquiry conducted by it. The Enquiry Officer had found that the certificate and mark sheets are bogus.

8. The initial question to be considered is whether the petitioner had produced bogus certificate and mark sheets before the Respondent Bank for obtaining automatic promotion. Ex.W4 is the copy of the provisional certificate that has been produced by the petitioner before the Respondent. Ext.M6 and Ext.M7 are the copies of mark list of 1st and 2nd year respectively, produced by the petitioner. In both these marks lists the petitioner is shown to have passed in all the subjects. Ex.M5 is the mark list of 3rd year in which he has passed in all the subjects.

9. The Management has initiated action by sending letter to the Annamalai University from which the petitioner has claimed to have obtained degree. Ext.M2 is the letter given by the University in answer to the letter by the Bank. The Controller of Examinations has informed in this letter that the petitioner has failed in all the subjects for his 1st and 2nd year examinations. In Ext.M9, another letter written by the University, the Respondent was informed that the provisional certificate in the name of the petitioner with Register No. 96J15T00091 is a fraudulent one and that the University has not issued any such certificate. The University has also sent a specimen of the provisional certificate issued by it and this is marked as Ext.M10. A comparison of Ext.M8 produced by the petitioner and Ext.M10 the specimen would show that both certificates are entirely different in nature.

10. The Controller of Examinations of Annamalai University has been examined as MW1 in the enquiry proceedings. He has examined the provisional certificate produced by the petitioner as the one issued from the University and has stated that it was not issued from the University and it is not a genuine one. The specimen copy

of the certificate was also marked through him in the enquiry proceedings. The mark lists of 1st and 2nd year produced by the petitioner in the bank were also put to the witness and he has stated that those are not genuine. He has stated that genuine mark lists are Exts.M3 to Exts.M5. As seen from Exts.M5 the petitioner has obtained minimum pass mark for all subjects in the 3rd year examination. However, he has failed in all subjects for the 1st year examination. For the 2nd year examination, as seen from Ext.M4, he has attended only four examinations out of six. He was absent for two examinations. The form and appearance of genuine mark lists are different from the mark lists produced by the petitioner.

11. MW2 examined in the enquiry proceedings is an Officer of HRD Department of the Bank. He has stated about the mode of promotion and the manner in which promotion was given. He has stated that the petitioner has written to the Management claiming that he has obtained the additional qualification of degree. He had also written to the Bank claiming cash incentive of Rs. 5,000 given to those who obtained degree. The letters were marked through this witness. He has stated that on the basis of the documents of qualification submitted by the petitioner he was given promotion.

12. The petitioner has himself given evidence in the enquiry proceedings. According to him all the mark sheets for his examination were received from the University by Registered Post, so also the provisional certificate.

13. From the evidence given by MW1, the Controller of Examinations in the enquiry proceedings there can be no doubt that the certificate and two out of three mark lists produced by the petitioner are bogus. He has passed in all subjects only in 3rd year examination. So there was no question of a provisional degree certificate having a degree been issued to him by the University. So his case that he has obtained the documents by Regd. Post from the University certainly could not be true. The genuine mark list were produced before the enquiring authority. A provisional certificate could not have been issued on the basis of this.

14. It has been argued on behalf of the petitioner that in any case the petitioner could not be said to have produced false mark list and certificate deliberately for the purpose of promotion. The Counsel for the petitioner has referred to the decision in SEKAR VS. REGISTRAR, TAMIL NADU ADMINISTRATIVE TRIBUNAL reported in 2008 3 CTC 23 where it was held in a similar case that there was no finding as to whether petitioner knowingly submitted false mark sheet. The Hon'ble High Court observed that the case regarding this is pending before the Criminal Court. On the basis of this, the High Court has modified the order of termination to one of reversal to the original post, subject to result of the Criminal Case. In the present case, there is no criminal case pending. It is clear from the facts of the

case that production of bogus mark lists and certificates was a deliberated act on the part of the petitioner. He must have been very much aware that he has not attended two of the 2nd year examinations and for this very reason he must also have been aware that a provisional degree certificate could not be issued to him. So his action of submitting the qualification documents before the bank is a deliberate one itself.

15. In the decision SEKAR VS DIRECTOR OF MEDICAL EDUCATION, CHENNAI reported in 2009 4 CTC 158 it has been held that bogus certificate produced has no bearing since the petitioner even otherwise possessed the qualification for the post of Barber. This is not the case here. If not for the bogus certificate, the petitioner was not qualified to be promoted as Clerk.

16. In the decision VENKATRAMAN VS. THE GENERAL MANAGER, TAMIL NADU STATE TRANSPORT CORPORATION AND OTHER CASES decided on 18.07.2011 (unreported) wherein a similar issue regarding bogus certificates were under consideration, the Madras High Court has observed that the action has been initiated after several years. It was also found that the employer has failed to produce any material through which they came to know that the employee had produced bogus certificates. It was further observed that the unexplained inaction on the part of the employer had allowed the employee to continue in service for 6 years, by the time the action had been initiated. The Court also observed that there was no case for the employer that the workmen who were Drivers had produced bogus Driving License and do not possess the requisite experience for Driving. The High Court has further stated that though the Court is not justifying the alleged action of the employees in producing the bogus certificates, the illegal way in which things were dealt with by the employers and that too with inordinate and unexplained delay has made them come to the decision of setting aside the impugned order. It is accordingly the Writ Appeals were allowed. In the present case there was neither delay on the part of the Respondent nor was there any impropriety or illegality in the enquiry held, nor is it a case where the petitioner could have been promoted to the post even without the bogus certificates in question.

17. Lastly, the petitioner's counsel has also referred to the decision in GUNASEKARAN VS. DIRECTOR OF ANIMAL HUSBANDRY, CHENNAI decided on 26.07.2013 in Writ Petition No. 14217 of 2007 (unreported). It was a case where a bogus SSLC examination Certificate was produced. The case of the petitioner was that he had appeared for the examination through a Tutorial Centre, that the Centre had informed him that he has passed SSLC and had also handed over the certificate to him informing him that it was obtained from the Director of Government Examination. It was found that there is no evidence to the

effect that the petitioner had created the false certificate or had produced the certificate knowing fully well that it was a fake certificate. It was on the basis of this finding the punishment of dismissal from service was set aside and the concerned employee was reverted to his previous post. As already stated, the petitioner who had absented himself for two examinations was very much aware that he is not eligible for a provisional certificate in respect of a degree which he could not have passed for want of attending some of the examinations. The misconduct committed by the petitioner is not something pardonable. That is why the respondent has imposed the punishment of dismissal from service.

18. In spite of the gravity of misconduct committed by the petitioner I do not want to efface all the years of service that he has acquired. Even on going through the counter statement I find that the punishment originally proposed was discharge from service with superannuation benefits. However, subsequently, the punishment of dismissal seems to have been awarded. I think the petitioner will be properly punished even by discharge from service with superannuation benefits. Accordingly, the punishment is modified to one of discharge from service with superannuation benefits.

18. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 22nd July, 2014)

K. P. PRASANNA KUMARI, Presiding Officer

#### **Witnesses Examined:**

For the 1st Party/Petitioner : None

For the 2nd Party/Management : None

#### **Documents Marked :**

##### **On the petitioner's side**

Ex.No.	Date	Description
Ex.W1	22.05.1989	Appointment order of the petitioner
Ex.W2	14.05.1991	ESLC Certificate
Ex.W3	1/1993	SSLC Certificate
Ex.W4	31.10.1997	U.G Provisional Certificate
Ex.W5	01.04.1998	Proceedings of the Respondent
Ex.W6	26.02.2001	Show Cause Notice
Ex.W7	27.04.2001	Explanation
Ex.W8	03.10.2001	Charge Sheet
Ex.W9	01.04.2002	Representation
Ex.W10	03.07.2002	Proceeding of the Respondent
Ex.W11	01.11.2003	Defence Written Arguments

Ex.W12	03.01.2004	Proceeding of the Respondent (Findings)
Ex.W13	08.01.2004	Order of Punishment
Ex.W14	24.01.2004	Final Order
Ex.W15	18.06.2004	Appeal
Ex.W16	26.08.2004	Proceeding of the Respondent
Ex.W17	20.09.2004	Representation
Ex.W18	08.11.2004	Appeal rejection order
Ex.W19	29.01.2005	Affidavit in WP No. 3834/2005
Ex.W20	11.03.2010	Order in WP No. 3834/2005
<b>On the Management's side</b>		
Ex.No.	Date	Description
Ex.M1	03.10.2001	Charge Sheet filed by the Respondent
Ex.M2	23.08.2001	Exhibit M-1 filed by the Respondent in the domestic Enquiry
Ex.M3	21.10.1995	Exhibit M-2 filed by the Respondent in the domestic enquiry
Ex.M4	25.10.1996	Exhibit M-3 filed by the Respondent in the domestic enquiry
Ex.M5	16.10.1997	Exhibit M-4 filed by the Respondent in the domestic Enquiry
Ex.M6	16.10.1997	Exhibit M-5 filed by the Respondent in the domestic enquiry
Ex.M7	16.10.1997	Exhibit M-6 filed by the Respondent in the domestic enquiry
Ex.M8	31.10.1997	Exhibit M-7 filed by the Respondent in the domestic enquiry
Ex.M9	12.02.2001	Exhibit M-8 filed by the Respondent in the domestic enquiry
Ex.M10	10.03.2000	Exhibit M-9 filed by the Respondent in the domestic enquiry
Ex.M11	-	Proceedings of the domestic enquiry
Ex.M12	01.01.2004	Findings of the Enquiry Officer
Ex.M13	24.01.2004	Proceedings of the Disciplinary Authority issued to the petitioner
Ex.M14	08.11.2004	Proceedings of the Appellate Authority
Ex.M15	23.11.2011	Petition filed by the petitioner before the Conciliation Officer
Ex.M16	14.02.2012	Counter filed by the Respondent before the Conciliation Officer

नई स्लिंगी, 14 अगस्त, 2014

**का.आ. 2285.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 79/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 14/08/2014 को प्राप्त हुआ था।

[सं. एल-12011/94/2013-आईआर (बी-1)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th August, 2014

**S.O. 2285.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 79/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 14/08/2014.

[No. L-12011/94/2013-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

**BEFORE SHRI J. P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR**  
Case No.CGIT/NGP/79/2013 Date : 21.07.2014.

**Party No. 1 :** The Asstt. General Manager,  
Administrative Office,  
State Bank of India, Region -I,  
S.V. Patel Marg, Nagpur.

#### Versus

**Party No. 2 :** The Asstt. General Secretary,  
State Bank Karmchari Sena,  
C/o State Bank of India,  
O & A Department,  
Zonal Office, Kingsway, Nagpur,  
Nagpur-440001

#### AWARD

(Dated: 21st July, 2014)

In exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), the Central Government has referred the industrial dispute between the employers, in relation to the management of State Bank of India, Region-I and their workman Shri S.N.Raut, for adjudication, as per letter No. L-12011/94/2013-IR (B-I) dated 27.01.2014, with the following schedule:-

"Whether the action of the management of State Bank of India, Region-I, Nagpur in denying claim of

conveyance allowance of Shri S.N. Raut, Senior Assistant for travelling from 12.11.2009 to 30.11.2009, 30.10.2010 & 08.12.2010 for attending the jobs entrusted by the higher authorities is just fair & legal? To what relief the concerned workman is entitled?"

- On receipt of the reference, the parties were noticed to file their respective statement of claim and written statement, by registered post with acknowledgement due.

The party No.1 appeared through their advocates on 11.04.2014.

In spite of sufficient service of notice on the petitioner, none appeared on behalf of the petitioner. No statement of claim was also filed on 11.04.2014. However, in the interest of natural justice, the reference was adjourned to 10.06.2014 and then to 21.07.2014 for filing of the statement of claim. Inspite of such adjournments, the petitioner neither appeared nor filed any statement of claim. So, on 21.07.2014, the reference was closed and posted for passing of the award.

It is well settled that whenever a party challenges the legality of an order, the burden lies upon him to prove the illegality of the order and it is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the party fails to appear or file written statement or produce evidence, the dispute referred by the Government cannot be answered in favour of the said party and the party would not be entitled to any relief.

Judging the present case with the touch stone of the settled principles as mentioned above, it is found that the petitioner has neither appeared nor filed any statement of claim and as such, he is not entitled to any relief. Hence, it is ordered:-

#### ORDER

The reference is answered in the negative and against the petitioner. The petitioner is not entitled to any relief.

J. P. CHAND, Presiding Officer

नई दिल्ली, 14 अगस्त, 2014

**का.आ. 2286.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बड़ोदा राजस्थान क्षेत्रीय ग्रामीण बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या 23/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/08/2014 को प्राप्त हुआ था।

[सं. एल-12011/11/2014-आईआर (बी-I)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th August, 2014

**S.O. 2286.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the management of Baroda Rajasthan Kshetriye Gramin Bank and their workmen, received by the Central Government on 14/08/2014.

[No. L-12011/11/2014-IR (B-I)]

SUMATI SAKLANI, Section Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

#### I.D. 23/2014

Reference No. L-12011/11/2014-IR(B-I) dated : 19.3.2014

The Secretary

Rajasthan Gramin Bank Officers  
Organization, 59, Patel Colony,  
S.P.Marg, C-Scheme, Jaipur.

V/s

The Chairman

Baroda Rajasthan Kshetriye Gramin Bank  
Head Office, City Plaza, Vaishali Nagar,  
Ajmer.

#### AWARD

27.6.2014

1. The Central Government in exercise of the powers conferred under clause (d) of sub-sections 1 & 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

"क्या प्रबंधन बड़ोदा राजस्थान क्षेत्रीय ग्रामीण बैंक, प्रधान कार्यालय अजमेर के द्वारा कर्मकार आर.एम.श्रीवास्तव के वेतन स्थीरता एवं वितरण अधिकार को बैंक प्रबंधन के द्वारा बिना किसी वैध कारण के दिनांक 18-10-2013 से वापस लिया जाना न्यायोचित एवं न्यायसंगत है? यदि नहीं, तो कर्मकार किस अनुतोष को पाने का अधिकारी है?"

2. Pursuant to the receipt of the reference order, registered notices were sent to both the parties & case was fixed for 20.6.2014 for filing statement of claim. Both the parties have been served. Applicant side has received the registered notice sent by tribunal on 25.4.2014. Acknowledgement of registered notice from both the parties has been received back & the same is available on the record. None appeared on 20.6.2014 from either side. The tribunal on its own motion adjourned the case in interest of justice furnishing opportunity to the applicant for filing statement of claim on 26.6.2014. On 26.6.2014 also applicant neither appeared nor any statement of claim was filed on his behalf. None was present from the

opposite party also. In above circumstances, no material could be brought on record by the applicant for adjudication of the reference order under consideration on merits. It is pertinent to note that under the direction of the Ministry dated 19.3.2014 also applicant failed to file statement of claim on his own motion after receipt of reference order although applicant's place of residence as given in residence is situated at Jaipur where tribunal is existing. Notices were sent by tribunal for filing statement of claim only when applicant suo-moto failed to file statement of claim as per direction of the Ministry. In above circumstance, further proceeding in the case was closed & step for passing "No Claim Award" was taken by tribunal. It appears that the applicant is not willing to contest the case further, therefore, "No Claim Award" is passed in this matter. The reference under adjudication is answered accordingly.

**3. Award as above.**

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 14 अगस्त, 2014

**का.आ. 2287.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एच डी एफ सी बैंक के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या 87/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/08/2014 को प्राप्त हुआ था।

[सं. एल-12012/60/2012-आईआर (बी-I)]

सुमिति सकलानी, अनुभाग अधिकारी

New Delhi, the 14th August, 2014

**S.O. 2287.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 87/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the management of HDFC Bank and their workmen, received by the Central Government on 14/08/2014.

[No. L-12012/60/2012-IR (B-I)]

SUMATI SAKLANI, Section Officer

**ANNEXURE**

**CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, JAIPUR**

BHARAT PANDEY, Presiding Officer

**I.D. 87/2012**

Reference No.L-12012/60/2012-IR(B-I) dated : 15.10.2012

Shri Mahendra Kumar  
S/o Shri K. C. Gupta  
R/o Hazari Ka Mohalla  
Alwar.

**V/s**

1. The Branch manager  
HDFC Bank Ltd.  
Bhagat Singh Circle Branch  
Alwar.
2. The managing Director  
HDFC Bank Ltd.  
HDFC Bank House, 2nd Floor,  
Senapati Bhawan, Lower Parel,  
Mumbai- 400013.

**PRESENT:**

For the Applicant : Sh. Suresh Kashyap,  
Advocate.

For the Non-applicants : Ex-parte.

**AWARD**

17.6.2014

1. The Central Government in exercise of the powers conferred under clause (d) of sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

"Whether the action of the management of HDFC Bank Ltd. In terminating the services of Shri Mahendra Kumar w.e.f. 24.11.2010, is legal & justified? To what relief Shri Mahendra Kumar Gupta is entitled?"

2. According to Statement of Claim the allegation of the applicant workman Sh. Mahendra Kumar in brief is that on 1.10.2008 he was appointed in the establishment of the respondent on the post of Sales Executive. It has been further alleged that his designation was 'Sales Executive' but he was working as a workman. His duty was purely manual to open the account of customers & make entries in the record & maintain the record. The above mentioned work was carried out by the workman employing his own hands. He was working like a clerk thus he is a workman within the meaning of section 2(s) of the Industrial Disputes Act, 1947. During his employment he neither enjoyed the power of managerial capacity nor he was involved in decision making independently. He was only designated as Sales Executive but assigned the duties of a clerk.

3. The nature of the duties of the applicant was permanent & was available continuously for all the days. The work was of regular nature which cannot be allowed to be performed through a contractor or on contract basis but the respondent appointed the applicant for fixed terms to deprive him the capacity of a regular employee & enjoy the consequential benefits existing with the post. Thus, the manner of respondent in appointing the applicant is nothing but an unfair labour practice which is impermissible under the Industrial Disputes Act.

4. The services of the applicant was terminated by the respondent vide order dated 24.11.2010 w.e.f. close of the office hours on 24.11.2010. The termination letter although contained the mention of clause 11 of the terms of service contract between applicant & the respondent which was for a period of two years but much time of service was still left to expire.

5. Prior to issue of termination letter respondent has not given any show cause for termination of service hence there is violation of Section 25-F of Industrial Disputes Act. After termination of the applicant new person has been appointed because the character of the work is of continuing nature. The work of the applicant was thoroughly satisfactory & there was no complain against with regard to his work & his record of service is very neat & clean. The applicant had completed more than 240 days service therefore, his services could not have been terminated without reason or payment of one month's wage or notice u/s 25-F of the Industrial Disputes Act, 1947. The termination of the applicant is illegal & unjustified. There is also violation of section 25-G & 25-H of the Industrial Disputes Act because there has been new appointment in place of applicant.

6. After termination of service applicant raised industrial dispute whereupon conciliation proceedings took place but due to adamant attitude of the respondent settlement did not take place & reference was made before the tribunal for adjudication. Termination of applicant's service is in violation of Sections 25-F, 25-G, 25-H & Rule 77 & 78 of the Industrial Disputes Act, 1947 which is liable to be set aside & applicant is entitled to be reinstated with all consequential benefits. Applicant is unemployed since the termination & has no source of income.

7. Notice were sent to opposite party & on 22.3.2013. Sh. Yatish Agrawal, Area Manager were personally present who has signed in the margin of the order-sheet dated 22.3.2013. According to order sheet dated 22.3.2013 he sought time for filing vakalatnama therefore, it was ordered by my learned predecessor that after filing of vakalatnama copy of the statement of claim may be furnished to the respondent. On 22.3.2013 next date 20.5.2013 was fixed for filing vakalatnama by respondent but on 20.5.2013 the opposite party did not appear & next date 22.7.2013 was fixed. On 22.7.2013 & subsequent date 16.9.2013 both the parties were absent hence next date 28.11.2013 was fixed. On 28.11.2013 applicant was present & opposite party was absent hence order was passed to proceed ex-parte against the opposite party & case was fixed on 4.2.2013 for recording ex-parte evidence of applicant. On 4.2.2013 Presiding Officer of this tribunal was absent hence 29.4.2014 was fixed for evidence. On 29.4.2014 documentary & affidavit in evidence was filed by applicant which was taken on record & case was fixed for ex-parte argument on 21.5.2013.

8. Applicant Sh. Mahendra Kumar has filed his affidavit in evidence in support of his statement of claim. Along with his affidavit he has filed following documentary evidence which is part of affidavit:-

- i. Ex-W-1- report of Regional Labour Commissioner (C), Jaipur regarding failure of conciliation proceedings.
- ii. Ex-W-2- Fixed term contract dated 29.9.2002 between applicant Sh. Mahendra Kumar Gupta & management of HDFC Bank & fixed term contract dated 1.10.2008 between applicant Sh. Mahendra Kumar Gupta & management of HDFC Bank.
- iii. Ex-W-3- Application dated 9.5.2012 by applicant Sh. Mahendra Kumar to Conciliation Officer for initiation of conciliation proceedings.
- iv. Ex-W-4- Reply of management of HDFC Bank against application of the applicant submitted before Conciliation Officer.
- v. Ex-W-5- Replication by applicant Sh. Mahendra Kumar against Ex-W-4 reply of management.
- vi. Ex-W-6- Termination letter dated 24.11.2010 wherein services of the applicant has been termination w.e.f. 24.11.2010.

9. Heard the ex-parte argument of the learned counsel for the applicant & perused the record carefully.

10. It has been argued by the learned counsel for the applicant that his services has been terminated by the management without following the procedure prescribed u/s 25-F of the Industrial Disputes Act & in violation of Sections 25-G & 25-H & Rule 77 & 78 of the Industrial Disputes Act hence he is entitled to be reinstated with all consequential benefits. It has also been argued that applicant was appointed on the post of Sales Executive but in fact he was 'Sales Executive' only by name but he worked in the respondent's establishment as a workman & never worked in managerial capacity hence he is a 'workman' within the meaning of Section 2(s) of the Industrial Disputes Act.

11. In view of above argument it is necessary first to consider whether the applicant is a workman as defined in Section 2(s) of the Industrial Disputes Act. Applicant was admittedly appointed on the post of "Contract Sales Executive" which means that his engagement as Sales Executive was contractual & the first engagement was from 1.10.2008 for two years & subsequent engagement was from 1.10.2010 for a period of two years according to Ex-W-2. The work which applicant was to performed with the bank according to terms of contract has been given in para 2 of the contract which reads as under:-

"2. During the engagement you shall devote the whole of your time, attention and ability to the business and affairs of the Bank and will use your

best endeavours to promote its interests. You shall not during your employment hereunder, be concerned or interested directly or indirectly in any way in any business competing with or similar to the business of the Bank and shall not have any interest in any business other than that of the Bank or accept remuneration in any other employment or service whatsoever except that you may hold shares or securities in any company which is quoted on a recognised Stock Exchange or dealt in publicly and in private family companies including the holding of nominal directorship in such companies (subject to compliance with the Personal Account Dealing Section of the Ethical Standards and Compliance Manual) and except also that you may be allowed to accept remuneration and fees for the teaching and lecturing work done outside office hours.”

12. Further para 6 of contract dated 1.8.2008 reveals the part of duties which the applicant had to perform as mentioned below:-

“6. You will not during your engagement or thereafter except in the proper course of your duties, disclose any information concerning any of the business or affairs of the Bank. Its subsidiaries or its associated companies or of any of its customers which may come to your Knowledge during the course of your engagement or otherwise howsoever and you will use your best endeavours to prevent any such disclosure.”

Para 14 of the contact further provides that policies and terms of services as applicable to applicant were to be made available to him after joining but no such document has been filed which provides further terms and conditions of service.

13. Content of para 2 & 6 clearly indicate that the applicant was under an obligation to work & promote the business of the bank to the best of his professional ability & guard the information related to affair of the bank which comes to his knowledge during course of the conduct of the business of the bank & whose disclosure may be detrimental to the business affair of the bank. In the para 1 of the affidavit it has been alleged by the applicant that his work was like the work of a clerk & he was performing the function of making entry into register & computer, opening the account of the customers including maintenance of the records of the account & he was not assigned any managerial power. He could neither serve any charge sheet nor appoint anyone or recommend for the leave to someone. His entire work was manual & he was assigned the post of Sales Executive with intention to keep him away from enjoying the benefit of a workman. He has also said that he is a workman within the meaning of section 2(s) of the Industrial Disputes Act. In para 1 of the statement of claim he has said, “ 1. That the applicant was

appointed on 1.10.2008 in respondent establishment on the post of Sales Executive but in fact he was only sales executive by name but he worked in the respondent establishment as a workman. His duty was purely manually he had to open the accounts of customers by his own hands and makes entries in the record and maintain the record and he had to work by his own hands and his duty work was like an employees as clerk so the applicant is workman under 2(s) of Industrial Disputes Act. Further, applicant wants to state that he has not enjoyed with the powers of managerial capacity nor he was in position to take any decision independently so his designation as Sales Executive only by name but duties assigned to him were like a clerk.”

14. From the above statements set out in statement of claim & affidavit clearly reveal that an attempt has been made by the applicant to bring himself within the definition of ‘workman’ as provided u/s 2(s) of the Industrial Disputes Act. Here, it is important to take notice of the reply Ex-W-4 furnished by opposite party before the Conciliation Officer about the work assigned to applicant wherein it has been alleged in para 2 that according to terms of contract he was engaged as Contract Sales Executive & was responsible for promotion of work & was expected to perform his duties as per contract. He was functioning as authorised person & representative from bank side to deal with account opening of customer. It shall appear from the above said statement by the management that the management has admitted that he was assigned to deal with the account opening of the customers. It cannot be said that the function of the opening of the account of customers is not a responsible function of the business executive or the function of opening of the account of the bank is the job of a workman. Dealing with opening of account in bank is one of the most important business of bank. This function in small branches are done by Branch Manager himself and in major branches separate post of managers have been created in the name of different types of accounts e.g. Manager, saving account etc.

15. Para 3 of the contract dated 29.9.2010 indicates that as per terms of the contract the applicant was entitled to receive a salary of Rs.11500 per month & conveyance allowance of Rs.2650/- . Beside this he was also entitled to be paid incentives based on his performance as per applicable policy of the bank. There is no provision for such incentives to a clerk in the bank.

16. Para 2(s)(i) to (iv) of the Industrial Disputes Act provides provision about the persons who are not a ‘workman’ & the relevant para IV is as under:-

“(iv). Who, being employed in a supervisory capacity, draws wages exceeding (ten thousand rupees) per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.”

17. From the above definition & salary of the applicant, the post & nature of duties he is performing, it is clear & unambiguous that the case of the applicant is unfit to be covered within the definition of a ‘workman’ as provided u/s 2(s) of the Act.

18. As far as the condition requisite for termination of the services of the applicant is concerned it has been alleged & argued that section 25-F of the Industrial Disputes Act has not been complied. From the termination letter it appears that termination has been made as per provision of clause 11 of the contract of service between the applicant & the HDFC Bank. The termination letter reads as under:-

HDFC Bank Limited  
Human Resources Division  
HDFC Bank House, 2nd Floor,  
Senapati Bapat Marg,  
Lower Parel, Mumbai- 400013  
Tel.: 66521000  
Fax: 24904016.

**Strictly Private and Confidential**

November 24, 2010

Mahendra Gupta  
Emp. Code : CM14160  
Bhagat Singh Circle

**Termination Letter**

Dear Mahendra,

Your Contractual services are terminated with effect from close of office hours on November, 24,2010.

As per Clause 11 of your contract letter dated October 1, 2008 you will be paid 30 days salary in lieu of notice due to you.

Regards,  
For HDFC Bank Ltd.  
(Signature illegible)  
Anuj Mathur  
Senior Vice President- Human Resources

Although, no one has appeared & filed any W.S. to contest the statement of claim by opposite party but It is pertinent to note that letter of termination does not contain any reason but representation by management Ex-w-4 before the Conciliation Officer indicates that during the tenure of applicant it was reported that he had opened multiple account of his family members to mop-up the numbers which is against the laid down norms of the bank. It has been further alleged that such action amounts to violation of laid down KYC norms beside tarnishing the image & credibility of the bank in the eyes of the customers.

19. Clause 11 of the contract letter provides as mentioned below:-

“11. This contract may be terminated by either party giving to the other not less than one month’s and not more than thirty day’s prior written notice to that effect expiring at any time after the commencement of your service hereunder or by the Bank paying you one month’s basic salary in lieu of notice (wherein before or after such notice of termination is given by you). The Bank shall be entitled, whether such notice of termination is given by you or the Bank to require you to proceed on leave at the time of receiving or giving such notice of termination or at any time thereafter. The unavailed leave may be adjusted against the notice period at the discretion of the management. The Bank shall also be entitled to terminate your services forthwith by paying one month’s salary in lieu of notice.”

The above content of para 11 of the contract of service indicates that there is an agreement between the applicant & the employer for forthwith termination of service by paying one month’s salary as noted in the termination letter hence it cannot be said that procedure was not followed before termination.

20. As far as application of Section 25-F of the Industrial Disputes Act is concerned it has been held in 2006 Supreme Court Cases (L&S) 38, Surendranagar District Panchayat, Appellant V/s Dahyabhai Amarsinh, Respondent, by Hon’ble Supreme Court in para 7 of the judgement, “..... To attract provisions of Section 25-F, the workman claiming protection under it, has to prove that there exists relationship of employer and employee; that he is a workman within the meaning of Section 2(s) of the Act; the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by Section 25-B under the employer. These conditions are cumulative. If any of these conditions is missing the provisions of Section 25-F will not be attracted. To get relief from the court the workman has to establish that he has right to continue in service and that his service has been terminated without complying with the provisions of Section 25-F of the Act. The section postulates three conditions to be fulfilled by an employer for getting a valid retrenchment, namely:-

- (i) one month’s clear notice in writing indicating the reasons for retrenchment or that the workman has been paid wages for the period of notice in lieu of such notice;
- (ii) Payment of retrenchment compensation which shall be equivalent to 15 days’ average pay for every completed year of continuous service or any part thereof, in excess of six months;

(iii) A notice to the appropriate Government in the prescribed manner."

21. The above said position clearly indicates that as the applicant has failed in his claim to be a workman within the meaning of section 2(s) of the Industrial Disputes Act hence, provision of section 25-F is not attracted. It is also important to mention that to prove the continuous service of 240 days in a year immediately preceding the date of termination except the affidavit applicant has not filed any record of attendance or payment of salary to make an assessment on this point. He has also not produced in evidence any fellow worker in support of this contention. From the above fact & circumstances, it is clear that benefit of section 25-F of the Industrial Disputes Act cannot be extended in the case of applicant.

22. As far as the violation of section 25-G & 25-H is concerned the applicant has alleged in para 6 of the statement of claim that new person has been engaged in violation of section 25-G & 25-H of the Industrial Disputes Act but he has not given any detail of the person who has been employed after his termination. Similarly, no evidence has been laid about the violation of principle of 'last come first go' in the matter of retrenchment. Statement of claim also lacks detail on this point.

23. In view of above discussions, the applicant has failed to prove that action of the management in terminating the services was in violation of section 25-F, 25-G & 25-H of the Industrial Disputes Act. Therefore, it is held that action of the management of HDFC Bank Ltd. in terminating the services of Sh. Mahendra Kumar w.e.f. 24.11.2010 is not illegal & unjustified. Resultantly, the workman is not entitled to any relief. The reference under adjudication is answered accordingly.

24. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 14 अगस्त, 2014

**का.आ. 2288.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चैन्नई के पंचाट (27/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/08/2014 को प्राप्त हुआ था।

[सं. एल-12011/63/2012-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 14th August, 2014

**S.O. 2288.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2013)

of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Indian Bank, and their workmen, received by the Central Government on 11/08/2014.

[No. L-12011/63/2012-IR (B-II)]

RAVI KUMAR, Section Officer

#### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHENNAI

Friday, the 18th July, 2014

**Present :** K. P. PRASANNA KUMARI, Presiding Officer

#### Industrial Dispute No. 27/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Bank and their workman)

#### BETWEEN

The Deputy General Secretary : 1st Party/  
Indian Bank Employees Union Petitioner Union  
No. 6, Moore Street, Mannady Corner  
Chennai-600001

#### AND

The General Manager : 2nd Party/  
Indian Bank, Zonal Office Respondent  
359, Dr. Nanjappa Road  
Coimbatore-641018

#### Appearance:

For the 1st Party/ : Sri J. Thomas Jeyaprabhakaran,  
Petitioner Union Authorized Representative  
For the 2nd Party/ : M/s T.S. Gopalan & Co., Advocate  
Management

#### AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12011/63/2012-IR (B-II) dated 11.02.2013 referred the Industrial Dispute between the above referred parties for adjudication.

The schedule mentioned in that order is :

"Whether the action of the Management of Indian Bank, Zonal Office, Coimbatore regarding imposition of the punishment of "Be brought down to a lower stage in the scale of pay one stage upon S/Sri A. Muthukrishnan, Sr. No. 54406, N. Soundaramuthu, Sr. No. 54435, N.M. Subramanian, Sr. No. 27391, A. Panneer Selvaraj, Sr. No. 54022, C.A. Prakash Babu, Sr. No. 54459 and V.E. Annamalai, Sr. No. 55382, Clerks, Tiruppur Branch, is legal and justified? What relief the workmen concerned are entitled to?"

2. On the receipt of Industrial Dispute, this Tribunal has numbered it as ID 27/2013 and sent notices to both sides. The petitioner has entered appearance through Authorized Representative and Respondent through counsel and filed their claim and counter statement respectively. After the counter statement was filed, the petitioner has filed rejoinder.

3. The averments in the Claim Statement filed by the petitioner in brief are these :

The petitioner has raised the dispute regarding the action taken by the Respondent awarding punishment of bringing down the pay by one stage on 6 employees named in the schedule of reference working in Tiruppur branch of the bank. All these employees were discharging their duties faithfully, sincerely and efficiently. While they are at Tiruppur branch, certain frauds were perpetrated by the Jewel Appraiser of the Branch who managed to avail jewel loans by pledging spurious jewels in the names of various customers. After this fact was detected, the employees in question were issued with Charge Sheets alleging that they had debited withdrawal slip / cheque and issued token for cash withdrawal even though the borrowers had not come to the branch in person and without verifying the identity of the presenter of the instrument and they had made cash payment without verifying the identity of the recipients. On enquiry the Enquiry Officer filed report finding the employees guilty and the Disciplinary Authority imposed the punishment of bringing down the pay by one stage on the employees. The Tiruppur branch is one with much work pressure. The branch administration had reposed much confidence on the Jewel Appraiser and he was given a free hand. The staff also in good faith believed the Appraiser and carried out certain actions in trust and belief. Even though the administration has brought out guidelines and procedures to be meticulously carried out this will involve considerable time. The deviation from the procedure on the part of the staff is because of the special circumstances in the branch administration. The action of the Respondent in imposing the punishment is illegal and unjustified and also a case of victimization, discrimination and unfair labour practice. An order may be passed holding that the punishment is illegal and unjustified and directing the Respondent to alter the punishment suitably.

4. The Respondent has filed Counter Statement contending as follows:

When the Inspection Team carried out inspection at Tiruppur branch from 31.05.2010, it was noticed that out of the 474 packets of pledged jewels, 21 contained spurious jewels. The jewels were appraised by the Jewel Appraiser, Damodaran. It was observed that the challans were in the handwriting of Damodaran and signatures in the challans were found forged. It was noticed that the proceeds of the jewel loans have been credited to the SB A/c of the

borrowers and withdrawn through the signed withdrawal slip obtained in blank and later filled up by the Appraiser in his own handwriting. In some cases, the withdrawal slips have been filled up by the Appraiser and the signatures of the borrowers have been forged. Cash payments have been made by the Cashiers without verifying the identity of the payees. So disciplinary action has been taken against the concerned 6 Clerks who were working in Cash Section of Tiruppur branch during the relevant period. An enquiry was conducted separately against the 6 employees and they were found guilty of the charges. After issuing show cause notice proposing punishment, their pay was lowered by one stage. The case would not justify exercise of power under Section-11A of the Industrial Disputes Act. The findings are not perverse. So there is no scope to interfere with the punishment.

5. The petitioner has filed a rejoinder denying the allegations made in the Counter Statement.

6. The evidence in the case consists of documents marked as Exts.W1 to Ext.W117 and Exts.M1 to Ext.M18. No oral evidence was adduced on either side.

7. The point for consideration are:

- (i) Whether the action of the management in imposing the punishment of bringing down the pay to a lower stage by one stage upon the employees named in the schedule of reference is legal and justified?
- (ii) What if any is the relief to which the petitioners are entitled?

### **The Points**

8. The pay of the concerned employees was brought down to a lower stage in the scale of pay by one stage on account of the alleged lapses and negligence on their part while disbursing jewel loans to certain borrowers. The inspection team of the Respondent who conducted the inspection had found that 21 packets of pledged jewels contained spurious jewels. The Appraiser of Tiruppur branch in which the incident had happened as found responsible for the fraud. The Respondent had found that the incident occurred because of the lapses on the part of the concerned employees. They had disbursed cash by withdrawal slip or cheque as the case may be without verifying the identity of the presenter and even without the borrowers coming to the branch in person.

9. There is no case in the Claim Statement that the employees have not committed the lapses alleged against them. On the other hand, by way of justification of their lapses, it is stated in the Claim Statement that there was pressure of work at the branch and it would not have been possible to carry out the guidelines and procedures meticulously. It is further stated that the employees had believed the Appraiser and carried out certain action in trust and belief.

10. The initial contention that has been raised by the counsel for the Respondent is that it is not a case where Section-11A of the Industrial Disputes Act could be invoked and therefore this Tribunal is not competent to consider the validity of the action taken by the Respondent in the absence of any perversity or victimization. Under Section-11A of the Industrial Disputes Act the Tribunal is competent to set aside the order of the employer only if it is a case of discharge or dismissal. The counsel for the Respondent has referred to the decision in CASHEW DEVELOPMENT CORPORATION LTD. VS. LABOUR COURT, KOLLAM reported in 1999 1 KLJ 406 and 2011 1 LLJ 529 in this respect. While considering the case of reversion of an employee the Kerala High Court has held in the decision referred to earlier that if enquiry is fair and proper and in the absence of any allegations of victimization or unfair labour practice the Labour Court has no power to interfere with the punishment imposed. The Court has held that though Section-11A of the ID Act gives ample power to the Tribunal to re-appraise the evidence adduced in enquiry and also sit in appeal over the decision of the employer in imposing punishment, this applies only in the case of dismissal or discharge of a workman. This is the dictum laid down by the High Court, Madras in the Bank of India case referred to above also.

11. Definitely the case on hand will not come under Section-11A of the ID Act, it being not a case of dismissal or discharge of the employee. So this Tribunal is not competent to appraise the evidence in the enquiry proceedings.

12. In case Section-11A is not applicable what is the procedure to be adopted by the Tribunal? Is the Tribunal competent to interfere with the punishment imposed on the employees in question? The matter is to be considered as if the Section-11A is not in the statute book at all. The position in such circumstances has been laid down by the Apex Court in the decision in INDIAN IRON AND STEEL COMPANY LTD. VS. THE WORKMEN AND OTHERS reported in AIR 1958 SC 130 and has been reiterated in the decision by WORKMEN OF M/S FIRESTONE TYRE AND RUBBER COMPANY OF INDIA (P) LTD. VS. MANAGEMENT AND OTHERS reported in 1973 1 SCC 813. In the later decision the Apex Court has reiterated the position that when a proper enquiry has been held by an employer and the finding of misconduct is a plausible conclusion flowing from the evidence, adduced at the said enquiry, the Tribunal has no jurisdiction to sit in judgment over the decisions of the employer as an appellate body. The interference with the decision will be justified only when the findings arrived at in the enquiry are perverse or the management is guilty of victimization, unfair labour practice or acting malafidely.

13. In the present case, it is not much disputed by the employees concerned that there were latches on their part. So there is no doubt that the finding of the Enquiry Officer is the only plausible conclusion flowing from the evidence in the enquiry and not a perverse one. So in the normal course, this Tribunal has no jurisdiction to sit in judgment over the decision of the Respondent.

14. The next question to be considered is whether the Respondent is guilty of victimization, unfair labour practice or has acted in a malafide manner. In the Claim Statement, there is a contention that the management has resorted to victimization, unfair labour practice and has been behaving in a discriminatory manner. However, when the facts of the case are taken into account, there is no room for any such contention at all. Though there is a plea in the Claim Statement, effort has not been made to establish that there was victimization, discrimination or unfair labour practice. In view of the apparent latches on the part of the employees, the Respondent has imposed the punishment of bringing down the pay to a lower stage in the scale of pay by one stage. This by itself is not victimization but only the consequence of the latches on the part of the concerned employees. This cannot be treated as discrimination or unfair labour practice.

15. It is also relevant to refer to the decisions in ROYAL PRINTING WORKS VS. INDUSTRIAL TRIBUNAL, MADRAS reported in 1959 2 MLJ 619 which was taken note of by the Apex Court. In the decision in DAVALSAB VS. NORTHWEST KARNATAKA ROAD TRANSPORT CORPORATION reported in 2013 10 SCC 185. In the Madras decision it has been held that carelessness can be often been productive of more harm than deliberate wickedness or malevolence. It has also been held that misplaced sympathy can be of great evil and carelessness and indifference to duty are not the high roads to individual or national prosperity. The above observation has been emphasized by the Supreme Court in DAVALSAB case.

16. It is the carelessness of the concerned employees that resulted in the Respondent giving several loans on the basis of spurious jewels. This could have been avoided if they were careful. This Court does not have the power to interfere with the punishment imposed by the Management in the absence of any victimization or unfair labour practice.

17. The concerned employees are not entitled to any relief. The reference is answered against the petitioner.

An award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th July, 2014)

K. P. PRASANNA KUMARI, Presiding Officer

**Witnesses Examined :**

For the 1st Party/Petitioner : None  
 For the 2nd Party/Management : None

**Documents Marked :****On the petitioner's side**

<b>Ex.No.</b>	<b>Date</b>	<b>Description</b>			
Ex.W1	03.02.2011	Charge Sheet issued to Sri VE Annamalai, Sr. No. 55382	Ex.W20	05.05.2011	List of Management Exhibits and Management Witnesses in the enquiry held against Sri A. Muthukrishnan
Ex.W2	03.02.2011	Charge Sheet issued to Sri A. Muthukrishnan, Sr. No. 54406	Ex.W21	05.05.2011	List of Management Exhibits and Management Witnesses in the enquiry held against Sri A. Panneer Selvaraj
Ex.W3	03.02.2011	Charge Sheet issued to Sri A. Panneer Selvaraj, Sr. No. 54022	Ex.W22	05.05.2011	List of Management Exhibits and Management Witnesses in the enquiry held against Sri CA Prakash Babu
Ex.W4	03.02.2011	Charge Sheet issued to Sri CA Prakash Babu, Sr. No. 54459	Ex.W23	05.05.2011	List of Management Exhibits and Management Witnesses in the enquiry held against Sri N. Soundaramuthu
Ex.W5	03.02.2011	Charge Sheet issued to Sri N. Soundaramuthu, Sr. No. 54435	Ex.W24	05.05.2011	List of Management Exhibits and Management Witnesses in the enquiry held against Sri N.M. Subramanian
Ex.W6	03.02.2011	Charge Sheet issued to Sri N.M. Subramanian, Sr. No. 27391	Ex.W25	26.05.2011	Letter from the enquiring authority enclosing the written brief submitted by the Presenting Officer
Ex.W7	18.02.2011	Reply by Sri VE Annamalai	Ex.W26	23.05.2011	Written arguments of the Presenting Officer pertaining to Sri VE Annamalai
Ex.W8	18.02.2011	Reply by Sri A. Muthukrishnan	Ex.W27	23.05.2011	Written arguments of the Presenting Officer pertaining to Sri A. Muthukrishnan
Ex.W9	18.02.2011	Reply by Sri A. Panneer Selvaraj	Ex.W28	23.05.2011	Written arguments of the Presenting Officer pertaining to Sri A. Panneer Selvaraj
Ex.W10	18.02.2011	Reply by CA Prakash Babu	Ex.W29	23.05.2011	Written arguments of the Presenting Officer pertaining to Sri CA Prakash Babu
Ex.W11	18.02.2011	Reply by Sri N. Soundaramuthu	Ex.W30	23.05.2011	Written arguments of the Presenting Officer pertaining to Sri N. Soundaramuthu
Ex.W12	18.02.2011	Reply by N.M. Subramanian	Ex.W31	23.05.2011	Written arguments of the Presenting Officer pertaining to Sri N.M. Subramanian
Ex.W13	05.05.2011	Proceedings of the Departmental Enquiry held against Sri VE Annamalai	Ex.W32	24.06.2011	Covering letter by the Defence Representative enclosing the summing up
Ex.W14	05.05.2011	Proceedings of the Departmental Enquiry held against Sri A. Muthukrishnan	Ex.W33	24.06.2011	Summing up pertaining to Sri VE Annamalai
Ex.W15	05.05.2011	Proceedings of the Departmental Enquiry held against Sri CA Prakash Babu	Ex.W34	24.06.2011	Summing up pertaining to Sri A. Muthukrishnan
Ex.W16	05.05.2011	Proceedings of the Departmental Enquiry held against Sri A. Panneer Selvaraj			
Ex.W17	05.05.2011	Proceedings of the Departmental Enquiry held against Sri N. Soundaramuthu			
Ex.W18	05.05.2011	Proceedings of the Departmental Enquiry held against Sri N.M. Subramanian			
Ex.W19	05.05.2011	List of Management Exhibits and Management Witnesses in the enquiry held against Sri VE Annamalai			

Ex.W35	24.06.2011	Summing up pertaining to Sri A. Panneer Selvaraj	Ex.W52	08.09.2011	Second Show Cause by the Disciplinary Authority to Sri CA Prakash Babu
Ex.W36	24.06.2011	Summing up pertaining to Sri CA Prakash Babu	Ex.W53	08.09.2011	Second Show Cause by the Disciplinary Authority to Sri N. Soundaramuthu
Ex.W37	24.06.2011	Summing up pertaining to Sri N. Soundaramuthu	Ex.W54	08.09.2011	Second Show Cause by the Disciplinary Authority to Sri N.M. Subramanian
Ex.W38	24.06.2011	Summing up pertaining to Sri N.M. Subramanian	Ex.W55	20.09.2011	Reply to Second Show Cause by Sri A. Muthukrishnan
Ex.W39	11.08.2011	Letter by the Disciplinary Authority enclosing the Enquiry Officer's findings dated 08.07.2011 pertaining to Sri VE Annamalai	Ex.W56	20.09.2011	Reply to Second Show Cause by the Disciplinary Authority to Sri A. Panneer Selvaraj
Ex.W40	11.08.2011	Letter by the Disciplinary Authority enclosing the Enquiry Officer's findings dated 08.07.2011 pertaining to Sri A. Muthukrishnan	Ex.W57	15.09.2011	Reply to Second Show Cause by the Disciplinary Authority to Sri CA Prakash Babu
Ex.W41	11.08.2011	Letter by the Disciplinary Authority enclosing the Enquiry Officer's findings dated 08.07.2011 pertaining to Sri A. Panneer Selvaraj	Ex.W58	15.09.2011	Reply to Second Show Cause by the Disciplinary Authority to Sri N. Soundaramuthu
Ex.W42	11.08.2011	Letter by the Disciplinary Authority enclosing the Enquiry Officer's findings dated 08.07.2011 pertaining to Sri CA Prakash Babu	Ex.W59	15.09.2011	Reply to Second Show Cause by the Disciplinary Authority to Sri N.M. Subramanian
Ex.W43	11.08.2011	Letter by the Disciplinary Authority enclosing the Enquiry Officer's findings dated 08.07.2011 pertaining to Sri N. Soundaramuthu	Ex.W60	22.09.2011	Proceedings of personal hearing of Sri A. Muthukrishnan
Ex.W44	11.08.2011	Letter by the Disciplinary Authority enclosing the Enquiry Officer's findings dated 08.07.2011 pertaining to Sri N.M. Subramanian	Ex.W61	22.09.2011	Proceedings of personal hearing of Sri A. Panneer Selvaraj
Ex.W45	25.08.2011	Reply by Sri A. Muthukrishnan to the Enquiry Officer's findings	Ex.W62	22.09.2011	Proceedings of personal hearing of Sri CA Prakash Babu
Ex.W46	25.08.2011	Reply by Sri A. Panneer Selvaraj to the Enquiry Officer's findings	Ex.W63	22.09.2011	Proceedings of personal hearing of Sri N. Soundaramuthu
Ex.W47	25.08.2011	Reply by Sri CA Prakash Babu to the Enquiry Officer's findings	Ex.W64	22.09.2011	Proceedings of personal hearing of Sri NM Subramanian
Ex.W48	25.08.2011	Reply by Sri N. Soundaramuthu to the Enquiry Officer's findings	Ex.W65	28.09.2011	Orders of the Disciplinary Authority imposing the punishment of "Be brought down to lower stage in the scale of pay by one stage" on Sri A. Muthukrishnan
Ex.W49	25.08.2011	Reply by Sri N.M. Subramanian to the Enquiry Officer's findings	Ex.W66	28.09.2011	Orders of the Disciplinary Authority imposing the punishment of "Be brought down to lower stage in the scale of pay by one stage" on Sri A. Panneer Selvaraj
Ex.W50	25.08.2011	Reply by Sri A. Muthukrishnan to the Enquiry Officer's findings	Ex.W67	28.09.2011	Orders of the Disciplinary Authority imposing the punishment of "Be brought down to lower stage in the scale of pay by one stage" on Sri CA Prakash Babu
Ex.W51	08.09.2011	Second Show Cause by the Disciplinary Authority to Sri A. Panneer Selvaraj			

Ex.W68	28.09.2011	Orders of the Disciplinary Authority imposing the punishment of “Be brought down to lower stage in the scale of pay by one stage” on Sri N. Soundaramuthu	Ex.W87	22.06.2010	Interrogation statement obtained from VE Annamalai
Ex.W69	28.09.2011	Orders of the Disciplinary Authority imposing the punishment of “Be brought down to lower stage in the scale of pay by one stage” on Sri NM Subramanian	Ex.W88	22.06.2010	Interrogation statement obtained from SS Rajan
Ex.W70	02.11.2011	Appeal submitted by Sri CA Prakash Babu to the Appellate Authority	Ex.W89	22.06.2010	Interrogation statement obtained from A. Panneer Selvaraj
Ex.W71	02.11.2011	Appeal submitted by Sri A. Panneer Selvaraj to the Appellate Authority	Ex.W90	09.06.2010	Letter from S. Damodaran, Jewel Appraiser, Tiruppur Branch
Ex.W72	30.12.2011	Orders of the Appellate Authority to Sri A. Muthukrishnan	Ex.W91	09.06.2010	Interrogation statement obtained from S. Damodaran, Jewel Appraiser, Tiruppur Branch
Ex.W73	29.12.2011	Orders of the Appellate Authority to Sri A. Panneer Selvaraj	Ex.W92	12.06.2009	Loan Application of R. Santhosh Kumar
Ex.W74	29.12.2011	Orders of the Appellate Authority to Sri CA Prakash Babu	Ex.W93	12.06.2009	Loan Application of V. Santhamani
Ex.W75	29.12.2011	Orders of the Appellate Authority to Sri N. Soundaramuthu	Ex.W94	12.06.2009	Loan Application of V. Tamilkodi
Ex.W76	29.12.2011	Orders of the Appellate Authority to Sri NM Subramanian	Ex.W95	12.06.2009	Loan Application of V. Santhamani
Ex.W77	18.02.2012	Letter from the Indian Bank Employees Union to the Asstt. Labour Commissioner, Madurai raising the dispute	Ex.W96	12.06.2009	Loan Application of V. Tamilkodi
Ex.W78	02.05.2012	Reply submitted by the bank’s administration	Ex.W97	12.06.2009	Loan Application of R. Santhosh Kumar
Ex.W79	04.05.2012	Rejoinder submitted by the Union	Ex.W98	12.06.2009	Loan Application of K. Senthil Kumar
Ex.W80	06.06.2012	Reply to the rejoinder by the Bank’s administration	Ex.W99	12.06.2009	Loan Application of V. Santhamani
Ex.W81	29.06.2010	Investigation Report in respect of the Jewel Loan fraud submitted by Sri N. Ravi, Vigilance Officer	Ex.W100	12.06.2009	Loan Application of V. Tamilkodi
Ex.W82	29.06.2010	Letter submitted by V. Tamilkodi	Ex.W101	12.06.2009	Loan Application of P. Suresh
Ex.W83	29.06.2010	Letter submitted by V. Santhamani	Ex.W102	12.06.2009	Loan Application of K. Senthil Kumar
Ex.W84	23.06.2010	Interrogation statement obtained from R. Santhakumar	Ex.W103	12.06.2009	Loan Application of K. Senthil Kumar
Ex.W85	22.06.2010	Interrogation statement obtained from K. Senthil Kumar	Ex.W104	12.06.2009	Loan Application of P. Suresh
Ex.W86	22.06.2010	Interrogation statement obtained from K. Marimuthu	Ex.W105	12.06.2009	Loan Application of V. Santhamani
			Ex.W106	12.06.2009	Loan Application of P. Suresh
			Ex.W107	12.06.2009	Loan Application of P. Suresh
			Ex.W108	12.06.2009	Loan Application of K. Marimuthu
			Ex.W109	12.09.2009	Loan Application of R. Santhosh Kumar
			Ex.W110	23.09.2009	Loan Application of K. Marimuthu
			Ex.W111	22.10.2009	Loan Application of K. Marimuthu
			Ex.W112	12.11.2009	Loan Application of K. Senthil Kumar
			Ex.W113	18.11.2009	Loan Application of V. Santhamani
			Ex.W114	24.11.2009	Loan Application of K. Senthil Kumar
			Ex.W115	29.01.2010	Loan Application of V. Santhamani

Ex.W116	18.02.2010	Loan Application of K. Senthil Kumar
Ex.W117	19.03.2004	Letter from Syndicate Bank, Industrial Relation Division, Head Office, Manipal

**On the Management's side**

Ex.No.	Date	Description
Ex.M1	10.06.2010	Investigation report of M. Pothiraj, Sr. Manager and Mr. V. Ayyaswamy, Manager
Ex.M2	16.07.2010	Show Cause Memo issued to VE Annamalai
Ex.M3	06.08.2010	Reply to VE Annamalai to Show Cause Memo
Ex.M4	16.07.2010	Show Cause Memo to A. Muthukrishnan
Ex.M5	06.08.2010	Reply of A. Muthukrishnan to Show Cause Memo
Ex.M6	16.07.2010	Show Cause Memo to A. Panneer Selvaraj
Ex.M7	06.08.2010	Reply of A. Panneer Selvaraj to Show Cause Memo
Ex.M8	16.07.2010	Show Cause Memo to CA Prakash Babu
Ex.M9	06.08.2010	Reply to CA Prakash Babu to the Memo
Ex.M10	16.07.2010	Show Cause Memo to N. Soundaramuthu
Ex.M11	11.08.2010	Reply of N. Soundaramuthu to Show Cause Memo
Ex.M12	16.07.2010	Show Cause Memo to N.M. Subramanian
Ex.M13	06.08.2010	Reply of N.M. Subramanian to the Show Cause Memo
Ex.M14	25.08.2011	Reply by VE Annamalai to the Enquiry Officer's findings
Ex.M15	08.09.2011	Second Show Cause Notice by D.A. to VE Annamalai
Ex.M16	20.09.2011	Reply to Show Cause Notice by VE Annamalai
Ex.M17	22.09.2011	Proceedings of the personal hearing dated 22.09.2011 of VE Annamalai before the Disciplinary Authority
Ex.M18	28.09.2011	Order of Disciplinary Authority imposing punishment to VE Annamalai, "be brought down to lower stage in the scale of pay by one stage".

नई स्लिपी, 14 अगस्त, 2014

**का.आ. 2289.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, इलाहाबाद बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ सं. 74/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/08/2014 को प्राप्त हुआ था।

[ सं. एल-12012/71/2004-आईआर (बी-II) ]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 14th August, 2014

**S.O. 2289.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 74/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Allahbad Bank, and their workmen, received by the Central Government on 11/08/2014.

[No. L-12012/71/2004-IR (B-II)]

RAVI KUMAR, Section Officer

**ANNEXURE**

**CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, LUCKNOW**  
**PRESENT :** Dr. MANJU NIGAM, Presiding Officer

**I.D. No. 74/2004**

Ref. No. L-12012/71/2004-IR (B-II) dated: 19.07.2004

**BETWEEN:**

Shri Praveen Kumar S/o Sh. Jag Mohan Agarwal  
Preet Vihar Colony Behind Shanker Flour Mill  
Dhushalpur Road, Majholi Distt.  
Moradabad (U.P.)

**AND**

The Regional Manager  
Allahabd Bank  
Regional Office, Huley Garden, Jangi Road  
Mirzapur (UP) –

**AWARD**

- By order No. L-12012/71/2004-IR (B-II) dated: 19.07.2004 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Praveen Kumar S/o Sh. Jag Mohan Agarwal, Preet Vihar Colony Behind Shanker Flour Mill, Dhushalpur Road, Majholi Distt., Moradabad and the Regional Manager, Allahabd Bank, Regional Office, Huley Garden, Jangi Road, Mirzapur (UP) for adjudication.

2. The reference under adjudication is:

“WHETHER THE ACTION OF THE MANAGEMENT OF ALLAHABAD BANK IN IMPOSING A PENALTY OF REMOVAL FROM BANK’S SERVICE W.E.F. 16.12.2002 UPON SHRI PRAVEEN KUMAR IS LEGAL AND JUSTIFIED? IF NOT, WHAT RELIEF HE IS ENTITLED TO?”

3. It is admitted case of the parties that the workman, Praveen Kumar was working as Clerk-cum-Cashier at Chapki Branch of the Bank when he was placed under suspension vide order dated 09.10.2000 and subsequently, was issued a major penalty charge sheet dated 31.03.2001 for alleged gross misconduct regarding embezzlement. Shri K.R. Sinha was appointed as Enquiry Officer, who submitted his enquiry report on 04.04.2002 before the disciplinary authority with finding that the charges leveled against the workman were found to be proved. The Disciplinary Authority, on the basis of findings of the Enquiry Officer, issued a Show Cause Notice dated 27.07.2002 to the workman and proposed the punishment of ‘Removal from the service of the Bank with superannuation benefits’ and after granting an opportunity for personal hearing inflicted the said punishment vide his order dated 16.12.2002. The aggrieved workman preferred an appeal, which was rejected by the Appellate Authority vide order dated 09.06.2003.

4. It has been alleged by the workman that there was flagrant denial of natural justice to the workman in course of the enquiry, in as much as he was not provided certain documents, requested by him during the course of enquiry which cause prejudice to him; therefore, the domestic enquiry is liable to be vitiated and the action of Allahabad Bank in dismissing the workman from the service of the Bank vide order dated 16.12.2002 be declared unjust, unfair and illegal and the workman be reinstated with full back wages and other consequential benefits.

5. The management of the Bank in its written statement has denied the allegations of the workman’s union and has defended its domestic proceedings with submission that the workman had been afforded all reasonable opportunity given under rules; and the principles of natural justice were fully complied with; hence, there is no anomaly with it; and accordingly, has prayed that domestic enquiry proceedings conducted by it may be upheld and the action of the Bank vide order dated 16.12.2002 be declared just, fair and legal without any benefit to the workman concerned.

6. After completion of the pleadings of the parties, following preliminary issues were framed in the presence of the parties vide order dated 12.04.2005:

- (i) Whether suspension order charge sheet, appointment of enquiry officer and order of punishment was issued by the incompetent officer;

- (ii) Whether the domestic enquiry held against the concerned workman was not fair and proper as alleged by the worker in his pleadings.

The parties were called upon to adduce their evidence on preliminary issues. The parties filed documents in support of their respective case and adduced oral evidence. The workman examined himself; whereas the management examined Shri K.K. Sinha, the Enquiry Officers in support of their case. The parties availed opportunity to cross-examine each other’s witnesses. Both the parties forwarded oral arguments on preliminary issues.

7. After hearing the parties’ authorized representatives of the parties and going through entire material available on record, following orders were passed on preliminary issues vide order dated 21.02.2007:

“On careful consideration of entire evidence, I come to the conclusion that suspension order, charge sheet, appointment of enquiry officer, order of punishment is issued by the Competent Disciplinary Authority. Issue No. 1 is accordingly decided in favour of the management.

.....  
.....

In the aforesaid circumstances it cannot be said that the enquiry was conducted in violation of principles of natural justice. Non supply of investigation report does not result in miss-carriage of justice.

Both the preliminary issues are accordingly decided against the worker.

Fixed 22nd March, 2007 for evidence of the parties. Worker is directed to file affidavit of its witnesses on the date fixed after delivering the copies thereof to the management opposite party.”

8. After the above order was passed, the opposite party filed an application, C-57 for modification of order dated 21.02.2007; wherein the management cited case laws i.e. the workmen of M/s Firestone Tyre and Rubber Company vs. Management 1973 Lab I.C. 851 (SC), K.S.R.T.C., Bangalore vs. Jhon D’Souza 1995 Lab I.C. 119 (Karn.) and Bank of Baroda vs. G. Sriram & another 2003 Lab I.C. 2077 (Andhra) wherein it was stated to be held that when Labour Court/Tribunal on preliminary issues regarding fairness of domestic enquiry comes to conclusion that such enquiry was fairly held, its jurisdiction is narrowed down and no further evidence needs be required regarding merits of the charges and the Labour Court/Tribunal would have no jurisdiction to record further evidence. Such procedure is to be adopted when domestic enquiry is vitiated.

On above application of the management, the order dated 21.02.2007 was rectified vide order dated 30.10.2007, which reads as under:

"In the circumstances from the laws cited by the opposite party I have no other alternate then to modify my order 21.2.07 and I modify it as follows:

FOR "Fixed 22.3.07 2007 for evidence of the parties. Worker is directed to file affidavit of its witnesses on the date fixed after delivering the copies thereof to the management opposite party."

READ "Fixed 22.3.07 for hearing of the parties under section 11-A of the I.D. Act, 1947. Worker is directed to argue on the quantum of punishment."

9. Admittedly, this Tribunal vide its order dated 21.02.2007 disposed of both the preliminary issues in favour of the management and thereafter fixed next date for workman's evidence; and on objection from the management vide application C-57, the order dated 21.02.2007 was rectified, in view of law laid down by Hon'ble Apex Court and High Courts in workmen of M/s Firestone Tyre and Rubber Company vs. Management 1973 Lab I.C. 851 (SC), K.S.R.T.C., Bangalore vs. Jhon D'Souza 1995 Lab I.C. 119 (Karn.) and Bank of Baroda vs. G. Sriram & another 2003 Lab I.C. 2077 (Andhra). The predecessor in the office rectifying the order dated 21.02.2007 by 'fixing the date for evidence' of the parties vide order dated 30.10.2007 corrected the error committed by it in the procedure and fixed the next date 'for argument on quantum of punishment'.

10. Thereafter, the case remained pending due to cropping up of petty issues by the workman for seven years and finally the parties forwarded their oral argument on the point of quantum of punishment under Section 11A of the Industrial Disputes Act, 1947.

11. Heard, parties and perused entire material available on record.

12. It has been contended by the authorized representative of the workman that the order of this Tribunal on preliminary issues is wrong as he had been denied the opportunity of proper defence during the course of domestic inquiry, by non-supply of documents and interference of Disciplinary Authority in the inquiry. It was also argued that the charge sheet is vague and has contended that in the preliminary inquiry someone else was found responsible for misconduct; but the workman has been penalized by the punishment order after conducting an unfair domestic inquiry.

13. Per contra, it was argued for management that the Court cannot sit in appeal or it cannot re-appreciate the evidence relied before Inquiry Officer; in as much as it cannot alter the order or punishment. It was submitted that the scope of invoking the powers given under Section 11 A of the Act, by the Labour Court is confined to the condition that the Court should interfere with the order of

punishment when it is disproportionate with respect to the misconduct committed or it is excessively harsh and shocking to the consciousness. It has further been argued that in the instant case the workman was given charge sheet for committing misconduct of "doing acts prejudicial to the interest of the bank" i.e. embezzlement of the Bank's money; and was penalized with the punishment of removal with benefits of superannuation, after conducting a thorough inquiry and this Tribunal vide its order dated 21.02.2007 has found that "suspension order, charge sheet, appointment of enquiry officer, order of punishment is issued by the Competent Disciplinary Authority; and the domestic inquiry was conducted in accordance with the principles of natural justice and the workman was afforded all reasonable opportunity to defend himself"; hence there is no scope for this Tribunal to interfere with the quantum of punishment order as the same is well proportionate order, as the workman was punished for proved gross misconduct i.e. embezzlement. It has been submitted that the embezzlement of Bank's money speaks ill of the honesty and integrity of the workman concerned. This is definitely an act prejudicial to the interest of the Bank. Such employees cannot be kept on the rolls of the Bank. It has relied on Bank of India vs Vishwa Mohan (1998) Lab IC 2514.

The bank management has further submitted that the Bank being a financial institution dealing with the public money and the employees of the Bank are required to exhibit utmost honesty and integrity in day to day transaction/functioning. The act of dishonesty or fraud or misappropriation or embezzlement constitute misconduct of serious nature warranting penalty of removal/dismissal. As the charges leveled against the workman were of serious/grave in nature, which were duly proved in the inquiry, therefore, the action of the management is justified. It has been argued by the bank that the aforesaid act of the workman has shaken the confidence of the bank in him and he is not fit to be kept in the services of the Bank, therefore deserves no interference into the quantum of punishment by this Tribunal. It has relied on Municipal Committee, Bandugarh vs. Kishan Baha and others 1996 Lab IC 1050.

14. I have given my thoughtful consideration to the rival contentions of the authorized representatives of the parties and perused case laws relied on by them.

15. In the instant case the workman was charge sheeted with the allegation of 'gross misconduct of embezzlement of Rs. 1,36,800 vide section 19.5 of first Bipartite Settlement; and during domestic inquiry, it has come out that the workman embezzled an amount of Rs. 1,36,800. The domestic inquiry and its findings were upheld by this Tribunal vide order dated 21.02.2007, holding that the suspension order, charge sheet, appointment of enquiry officer, order of punishment is issued by the Competent

Disciplinary Authority; and the domestic inquiry was conducted in accordance with the principles of natural justice; and the workman was afforded all reasonable opportunity to defend himself. Hence, after decision on the preliminary issues in the favour of the management, the workman has pleaded that the punishment imposed upon him is disproportionate and this Tribunal should interfere into it within the provisions provided under Section 11 A of the Industrial Disputes Act, 1947.

16. Hon'ble Apex Court in B.C. Chayurvedi v. Union of India, (1995) 6 SCC 749 while discussing about the scope of judicial review, in disciplinary matters, has observed as under:

"The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, impose appropriate punishment with cogent reasons in support thereof."

In DG, RPF vs. Sai Babu (2003) 4 SCC 331, Hon'ble Apex Court has observed that:

"6..... Normally, the punishment imposed by a disciplinary authority should not be disturbed by the High Court or a tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate, after examining all the relevant factors including the nature of charges proved against, the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of an discipline required to be maintained, and the department/establishment which the delinquent person concerned works."

In United Commercial Bank vs. P.C. Kakkar (2003) 4 SCC 364 Hon'ble Apex Court on review of a long line of cases and the principles of judicial review of administrative action under English law summarized the legal position in the following words:

"11. The common thread running through in all these decisions is that the court should not interfere with the administrators' decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case the court would not go into the

correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision.

12. To put it differently, unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court/tribunal, there is no scope for interference. Further, to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof."

In Union of India vs. S.S. Ahluwalia (2007) 7 SCC 257 Hon'ble Supreme Court reiterated the legal position as follows:

"8. .... The scope of judicial review in the matter of imposition of penalty as a result of disciplinary proceedings is very limited. The court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved."

In State of Meghalaya v. Mecken Singh N. Marak (2008) 7 SCC 580 Hon'ble Supreme Court stated that:

"The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review.

17. Hon'ble Apex Court in Administrator, Union Territory of Dadra and Nagar Haveli vs. Gulbhia M. Lad (2010) 2 SCC (L&S) 101 has observed that :

"The legal position is fairly well settled that while exercising the power of judicial review, the High Court or a Tribunal cannot interfere with the discretion exercised by the disciplinary authority, and/or on appeal the appellate authority with regard to the imposition of punishment unless such discretion suffers from illegality or material procedural irregularity or that would shock the conscience of the court/tribunal. The exercise of discretion in imposition of punishment by the disciplinary authority or appellate authority is dependent on host of factors such as gravity of misconduct, past conduct, the nature of duties assigned to the delinquent, responsibility of the position that the delinquent holds, previous penalty, if any, and the discipline required to be maintained in the department or establishment he works. Ordinarily the court or the tribunal would not substitute its opinion on reappraisal of facts.

18. In the instant case the workman, was working as Clerk-cum-Cashier in Chapki branch of the bank and he

closed the cash balance on 05.10.2000 with cash shortage of Rs. 1,36,800. The bank was closed for 03 days i.e. from 06.10.2000 to 08.10.2000 due to Dushehara Festival/Durga Pooja; and on opening the branch on 09.10.2000, the closing cash balance of 05.10.2000 was checked in presence of the workman. On physical verification/checking the cash balance was found to be short by Rs. 1,36,800. The management through evidence proved before the domestic inquiry that the workman embezzled above amount and the domestic inquiry conducted by the management was upheld by this Tribunal vide its order dated 21.02.2007. The workman has not preferred any appeal against the preliminary order dated 21.02.2007, making the order final and binding on the parties.

The Bank management has argued that the embezzlement of the Bank's money speaks ill of the honesty and integrity of the workman concerned. This is definitely an act prejudicial to the interest of the Bank, which leads to loss of faith in the workman. In *Air India Corporation Bombay vs. V.A. Ravellow* 1972 (25) FLR 319 (SC) it has been observed that:

“Once the employer has lost the confidence in the employee and the bona fide loss of confidence is affirmed, the order of punishment must be considered to be immune from challenge, for the reason that discharging the office of trust and confidence requires absolute integrity, and in a case of loss of confidence, reinstatement cannot be directed.”

In *Khaiyalal Agarwal and others vs. Factory Manager, Gwaliar Sugar Co. Ltd.* AIR 2001 SC 3645 Hon'ble Apex Court laid down the test for loss of confidence to find out as to whether there was bona fide loss of confidence in the employee, observing that:

“(i) the workman is holding the position of trust and confidence; (ii) by abusing such position, he commits act which results in forfeiting the same; and (iii) to continue him in service/establishment would be embarrassing the inconvenient to the employee, or would be detrimental to the discipline or security of the establishment. Loss of confidence cannot be subjective, based upon the mind of the management. Objective facts which would lead to a definite inference of apprehension in the mind of the management, regarding trust worthiness or reliability of the employee, must be alleged and proved.”

In *State Bank of India and another v. Bela Bagchi and others* AIR 2005 SC 3272, repelled the contention that even if by the misconduct of the employee the employer does not suffer any financial loss, he can be removed from service in a case of loss of confidence. Further in A.P.

*SRTC v. Raghuda Shiva Sankar Prasad* AIR 2007 SC 152 Hon'ble Apex Court has observed that in case of theft, the quantum of theft is not import and what is important is the loss of confidence of employer in employee.

19. Thus, the Bank being a financial institution dealing with the public money, the employees of the Bank are required to exhibit utmost honesty and integrity in day to day transaction/functioning. The act of dishonesty or fraud or misappropriation or embezzlement lowers down the reputation of Bank in public. The public loose their confidence in Bank, which affects Bank's business and finally the national economy.

20. Hon'ble Apex Court in (2011) 1 Supreme Court Cases (L&S) 721 has observed that:

“7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the inquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore the courts will not interfere with findings of fact recorded in departmental inquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or findings, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations.”

21. In the instant case the charge of embezzlement of the Bank's money was found to be proved and principles of natural justice were properly observed while conducting the departmental inquiry; and also the findings of the Inquiry Officer were not found to be perverse. Therefore, under the facts and the circumstances and considering the laws, there is no justification in interfering with the order of punishment imposed upon the workman by the Disciplinary Authority for proved gross misconduct of ‘embezzlement’. Accordingly, the workman is not entitled for any relief.

22. Award as above.

Dr. MANJU NIGAM, Presiding Officer

Lucknow  
08th July, 2014.

नई दिल्ली, 14 अगस्त, 2014

**का.आ. 2290.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार विजय बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II, चंडीगढ़ के पंचाट (246/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 11/08/2014 को प्राप्त हुआ था।

[सं. एल-12012/69/2011-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 14th August, 2014

**S.O. 2290.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 246/2012) of the Cent. Govt. Indus. Tribunal-cum-Labour Court-II, Chandigarh as shown in the Annexure, in the industrial dispute between the management of Vijaya Bank, and their workmen, received by the Central Government on 11/08/2014.

[No. L-12012/69/2011-IR (B-II)]

RAVI KUMAR, Section Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

**Present :** SRI KEWAL KRISHAN, Presiding Officer

**Case No. I.D. No. 246/2012**

**Registered on 4.9.2012**  
Sh. Ravi Kumar,  
S/o Sh. Mahipal Singh,  
H. No. 113, Sector 29A,  
Chandigarh.

...Petitioner

#### Versus

Dy. General Manager,  
Vijaya Bank, Regional Office,  
Sector 9C, Chandigarh.

...Respondents

**Case No. I.D. No. 213/2011**

**Registered on 25.8.2011**

Sh. Ravi Kumar,  
S/o Sh. Mahipal Singh,  
Ex-Peon-cum-Sweeper,  
Vijaya Bank, Zirakpur,  
R/o House No.113, Sector 29A,  
Chandigarh.

...Petitioner

#### Versus

1. Vijaya Bank through its  
Dy. General Manager,  
Regional Office, Sector 9C,  
Chandigarh.

2. Vijaya Bank, Zirakpur  
(Punjab).  
...Respondents

#### APPEARANCES :

For the workman : Sh. Raj Kaushik Adv.  
For the Management : Sh. K. P. S. Dhillon Adv.

#### AWARD

Passed on 2.6.2014

This order will dispose of Reference No. 246 of 2012 and 213 of 2011.

Central Government vide Notification No. L-12012/69/2011-IR(B-II) Dated 31.8.2012, by exercising its powers under Section 10 sub-section (1) Clause (d) and sub-section (2-A) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'Act') has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the action of the management of Vijaya Bank Regional Office, Chandigarh in terminating the services of Sh. Ravi Kumar, S/o Sh. Mahipal w.e.f. 5.2.11 is legal and justified? What relief the concerned workman is entitled to?"

The workman submitted statement of claim pleading that he was appointed as Peon-cum-Sweeper by the respondent bank where he joined on temporary basis and he worked with the management till 5.2.2011 when his services were terminated. That he has completed 240 days of service and the management terminated his services in violation of the provisions of Section 25F of the Act. That his termination being illegal, he be reinstated in service.

Respondent management filed written statement pleading that workman was engaged temporarily on account of increase in the work on daily wages and he worked only for 53 days. He was not appointed on any post. That the bank was not required to follows the provisions of the Act.

A similar reference was also presented by the workman in this Court which was numbered as Reference No. 213/2011 and both the references were ordered to be consolidated vide order dated 29.4.2013 passed in reference No. 213/2011.

The workman did not lead any evidence and made a statement on 13.5.2014 in order to withdraw the reference. None appeared person from the side of the workman and management on 19.5.2014 when the case was fixed for hearing and on that count workman and the management were proceeded against ex parte.

Since the workman did not lead any evidence in support of his case, it cannot be said that his services were terminated illegally and he is not entitled to any relief and both the references stands dismissed. Let hard and soft copy of the award be sent to the Central Government for further necessary action.

KEWAL KRISHAN, Presiding Officer

नई दिल्ली, 20 अगस्त, 2014

**का.आ. 2291.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आर. क्यू. एस. एंड केओलिन कंपनी, मंगलहाट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, धनबाद के पंचाट (संदर्भ संख्या 22/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 5/08/2014 को प्राप्त हुआ था।

[सं. एल-29011/37/2012-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th August, 2014

**S.O. 2291.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2013) of the Central Government Industrial Tribunal/Labour Court-2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of RQS & Kaoline Company, Mangalhat and their workman, which was received by the Central Government on 5/8/2014.

[No. L-29011/37/2012-IR(M)]

JOHAN TOPNO, Under Secy.

#### ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD**  
**PRESENT: SHRI KISHORI RAM, Presiding Officer.**

In the matter of an Industrial Dispute under  
Section 10(1)(d) of the I.D.Act.,1947.

#### REFERENCE NO.22 OF 2013

**PARTIES :** The Gen.Secretary,  
Mangalhat Khadan Mazdoor Sangh,  
Rajmahal, H.O. Pakur,

Vs.

The General. Manager  
RQS & Kaoline Co, Mangalhat,  
Rajmahal, Sahebganj.

Ministry's Order No. L-29011/37/2012-IR(M) dt.11.1.2013.

#### APPEARANCES :

On behalf of the : None  
workman/Union

On behalf of the : Mr. B. B. Pandey, Ld. Advocate  
Management

State : Jharkhand

Industry : Small Industry

Dated, Dhanbad, the 09th July, 2014

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No L-29011/37/2012-IR(M) dt.11.1.2013.

#### SCHEDULE

- (i) “Whether the union should first submit notice for termination of settlement before raising the demand afresh?.”
- (ii) And whether the demand to continue the medical allowance and extra leave wages etc since the discontinuation of the same as per settlement dated 15.03.2010 is justified.”
- 2. Neither the Union Representative for the Manglahat Khadan Mazdoor Sangh,Rajmahal,Pakur appeared nor any written statement filed on behalf of any workman nor any documents in spite of giving him the last chance for it after three Regd. Notices.Mr.B.B.Pandey,Ld.Advocate for the O.P./Management is present.

Perused the case record. It appears that it has been all along pending for filing a written statement along the documents on behalf of any workman since its registration on 21.1.2013; since then three registered notices dt. 2.4.13, 01.10.13 and 06.03.14 were issued to the General Secretary of the aforesaid Sangh on his address noted in the reference itself. The present reference as per its schedule relates to two issues, firstly for submitting notice by the Union for termination of settlement, and secondly as to the demand to continue the medical allowances and extra leave wages since the discontinuation of the same as per settlement dt. 15.03.2010 without any reference of any workman. So the reference itself is quite vague. Hence it is undeterminable for the reason of uncertain schedule. Therefore, it is closed as No Industrial Dispute existent or made out as per the schedule to the reference. Accordingly an order of “No Industrial Dispute made out” is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 20 अगस्त, 2014

**का.आ. 2292.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ऑयल कारपोरेशन लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, धनबाद के पंचाट (संदर्भ संख्या 31/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 5/08/2014 को प्राप्त हुआ था।

[सं. एल-30011/54/2012-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th August, 2014

**S.O. 2292.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2013) of the Central Government Industrial Tribunal/Labour Court-2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Oil Corporation Limited and their workman, which was received by the Central Government on 5/8/2014.

[No. L-30011/54/2012-IR(M)]

JOHAN TOPNO, Under Secy.

#### ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD  
PRESENT : SHRI KISHORI RAM, Presiding Officer**

In the matter of an Industrial Dispute under  
Section 10(1)(d) of the I.D.Act.,1947.

#### REFERENCE NO. 31 OF 2013

**PARTIES :** The Secretary,  
Shramik Vikash Parishad,  
PO : Barauni Refinery Township,  
E-1/86, Begusarai.

Vs.

The Executive Director,  
IOCL, Barauni Oil Refinery,  
Dist : Begusarai

Order No. L-30011/54/2012-IR(M) dt.01.02.2013

#### APPEARANCES :

On behalf of the : None  
workman/Union

On behalf of the : Mr. K. N. Gupta, Ld. Advocate  
Management

State : Bihar Industry : Petroleum & Gas

Dated, Dhanbad, the 25th July, 2014.

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1) (d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-30011/54/2012-IR (M) dt.01.02.2013.

#### SCHEDULE

“Whether the action of the Management of Indian Oil Corporation Ltd. Barauni Oil Refinery by not signing the settlement on the movement of worker to Grade IX and payment of perks and allowances under Cafeteria approach was justified or not ? What relief he workmen are entitled to?

2. Neither any Representative for the Shramik Vikash Parishad, Barauni, Begusarai, appeared nor any written statement with any documents filed on his behalf or any workman. Mr. K. N. Gupta, Ld. Advocate for the O.P./Management is present.

On perusal of the case record of the Reference, I find that the instant Reference as under its schedule refers to an issue over the action of the O.P./Management in denying to sign the settlement on the payment of the worker to Grade IX and payment of perks and allowances under Cafeteria approach but it does not refer to the name of any worker or the workmen. So it appears to be an issue of universal nature . Yet on behalf of the O.P./Management. Mr. N. K. Das, the G.M./H.R for the O.P./Management as per his petition dt. 24.04.2014 has submitted that both the aforesaid issues namely (a) movement of workman from Grade VIII to IX on 31st Dec., 2013 and (b) payment of perks and allowances under Cafeteria approach on 30.09.2013 as per Bipartite Settlement and subsequently the Tripartite were finally settled before the RLC(C), Patna, respectively, and they have been implemented. Consequenently, the benefits under the above settlements have already been passed on to the employees. Under such circumstances “No Industrial Dispute” now exists. Hence, the case is disposed of by closing it as “No Industrial Dispute existing”. Accordingly, an order of “No Industrial Dispute” existent is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 20 अगस्त, 2014

**का.आ. 2293.**—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कोलकाता पोर्ट ट्रस्ट के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 18/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 5/08/2014 को प्राप्त हुआ था।

[सं. एल-32011/2/2002-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th August, 2014

**S.O. 2293.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/2002) of the Central Government Industrial Tribunal/Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kolkata Port Trust and their workman, which was received by the Central Government on 5/8/2014.

[No. L-32011/2/2002-IR(M)]

JOHAN TOPNO, Under Secy.

**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
AT KOLKATA****Reference No. 18 of 2002**

Parties: Employers in relation to the management of  
Kolkata Port Trust

**AND**

Their workmen

**Present : JUSTICE DIPAK SAHA RAY, Presiding Officer****Appearance:**

On behalf of the Management : Mr. M. K. Das,  
Industrial Relations Officer

On behalf of the Workmen : None

State : West Bengal Industry : Port & Dock

Dated : 4th August, 2014

**AWARD**

By Order No.L-32011/2/2002-IR(M) dated 01.08.2002 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Kolkata Port Trust in not paying R.T. Allowance to the workmen i.e. Shri S. Sharma and Shri Bimal Das attending work at Berhampur side at par with the Junior Laboratory assistant-cum-Hydraulic Observer Shri Parthasarathi Moullick is justified? If not, to what relief the concerned workmen are entitled?”

2. When the case is taken up today for hearing, none appears on behalf of the union/workmen though the management is represented by its representative. It appears from the record that none appeared on behalf of the union inspite of service of notice. Considering the above facts and circumstances and the conduct of the union it may reasonably be presumed that the union/workman is not interested to proceed with the instant reference case further.

3. Considering the above facts and circumstances, instant reference is disposed of by passing a “No Dispute Award”.

Justice DIPAK SAHA RAY, Presiding Officer

Dated, Kolkata,

The 4th August, 2014.

नई दिल्ली, 20 अगस्त, 2014

**का.आ. 2294.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सतना स्टोन एंड**

लाइम कंपनी लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 15, 16, 17, 18, 19, 20, 44, 45, 46, 72, 73 और 74/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 5/08/2014 को प्राप्त हुआ था।

[सं. एल-29012/10, 11, 12, 13, 14, 15,

47, 48, 49/2008-आईआर (एम),

सं. एल-29012/72, 73, 74/2007-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th August, 2014

**S.O. 2294.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. Nos. 15, 16, 17, 18, 19, 20, 44, 45, 46, 72, 73 & 74/2008) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Satna Stone Lime Company Limited and their workman, which was received by the Central Government on 5/8/2014.

[No. L-29012/10, 11, 12, 13, 14, 15, 47, 48, 49/2008-IR(M),  
No. L-29012/72, 73, 74/2007-IR(M)]

JOHAN TOPNO, Under Secy.

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR****PRESIDING OFFICER : SHRI R. B. PATLE**

Case No. CGIT/LC/R/15,16,17,18,19,20,44,45,46,72,73 & 74/08

Shri Ram Saroj Kushwaha,  
General Secretary,  
AITUC Distt. Parishad,  
AITUC Office, Sidharth Nagar,  
Post Birla Vikas,  
Distt. Satna (MP)

.....Workman/Union

**Versus**

The Managing Director,  
Satna Stone Lime Co. Ltd.,  
6, Middle Road, Hasting,  
Kolkatta

.....Management

**AWARD**

(Passed on this 11th day of July, 2014)

1. (a)The Government of India, Ministry of Labour vide its Notification No.L-29012(10)/2008-IR(M) dated 4-3-2008 has referred the following dispute for adjudication by this tribunal:-

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Shri Lalji Garj S/o Shri Srimanan Narayan Garg and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(b) The Government of India, Ministry of Labour vide its Notification No.L-29012(11)/2008-IR(M) dated 4-3-2008 has referred the following dispute for adjudication by this tribunal:-

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Shri Durjan S/o Shri Munna Dhobi and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(c) The Government of India, Ministry of Labour vide its Notification No.L-29012(12)/2008-IR(M) dated 4-3-2008 has referred the following dispute for adjudication by this tribunal:-

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Shri Chunna Teli S/o Shri Ramdas Teli and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(d) The Government of India, Ministry of Labour vide its Notification No.L-29012(13)/2008-IR(M) dated 4-3-2008 has referred the following dispute for adjudication by this tribunal:-

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Shri Dulria Chamaarin W/o Shri Tijola Chamaar and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(e) The Government of India, Ministry of Labour vide its Notification No.L-29012(14)/2008-IR(M) dated 4-3-2008 has referred the following dispute for adjudication by this tribunal:-

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Shri Jainarayan Garg S/o Shri Sriman Narayan Garg and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(f) The Government of India, Ministry of Labour vide its Notification No.L-29012(15)/2008-IR(M) dated 4-3-2008 has referred the following dispute for adjudication by this tribunal:-

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Smt.Sundi Kori W/o Shri Kaushal Kori and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(g) The Government of India, Ministry of Labour vide its Notification No.L-29012(72)/2007-IR(M) dated 25-2-2008 has referred the following dispute for adjudication by this tribunal:-

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Shri Achhelal Kushwaha S/o Shri Kallu Kushwaha and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(h) The Government of India, Ministry of Labour vide its Notification No.L-29012(73)/2007-IR(M) dated 25-2-2008 has referred the following dispute for adjudication by this tribunal:-

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Shri Faguna Chamaar S/o Shri Akali Chamaar and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(i) The Government of India, Ministry of Labour vide its Notification No.L-29012(74)/2007-IR(M) dated 25-2-2008 has referred the following dispute for adjudication by this tribunal:-

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Shri Raghunathdin Singh S/o Shri Ramsahay and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(j) The Government of India, Ministry of Labour vide its Notification No.L-29012(47)/2008-IR(M) dated 10-6-2008 has referred the following dispute for adjudication by this tribunal:-

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Smt Booti Kolin W/o Shri Amir Kaul and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(k) The Government of India, Ministry of Labour vide its Notification No.L-29012(48)/2008-IR(M) dated 10-6-2008 has referred the following dispute for adjudication by this tribunal:-

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Smt. Ramsakhi Kauri W/o Shri Manmohan Kauri and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

(l) The Government of India, Ministry of Labour vide its Notification No.L-29012(49)/2008-IR(M) dated 10-6-2008 has referred the following dispute for adjudication by this tribunal:-

“Whether the lock-out of Satna Stone & Lime Company Ltd., Siding, Madhya Pradesh w.e.f. 17-8-2000 was legal or not?”

“Whether the action of Satna Stone & Lime Company Ltd., Siding, Satna MP in not paying wages w.e.f. 1-5-2000 to 17-8-2000 to Shri Manmohan Kauri S/o Shri Chhotte Lal Kauri and bonus and retrenchment compensation for the period 1999 to 2001 is just and legal? If not, to what relief the workman is entitled to?”

2. All the twelve reference cases are taken up together as all are on a common subject matter and are interconnected with each other.

3. Repeatedly notices are issued to parties since 2008. Both parties failed to cause their appearance and participate in reference proceeding. It appears that parties lost interest in dispute under reference. They failed to participate in the reference proceeding. Therefore award is passed as under:-

“For non-participation of parties in reference proceedings, the dispute could not be adjudicated.”

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 अगस्त, 2014

**का.आ. 2295.—**औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एयरपोर्ट अर्थारिटी ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 8/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 5/08/2014 को प्राप्त हुआ था।

[सं. एल-12011/12/2013-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th August, 2014

**S.O. 2295.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 8/2014) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India and their workman, which was received by the Central Government on 5/8/2014.

[No. L-12011/12/2013-IR(M)]

JOHAN TOPNO, Under Secy.

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
CHENNAI**

Wednesday, the 30th July, 2014

**Present :** K. P. PRASANNA KUMARI, Presiding Officer  
**Industrial Dispute No. 8/2014**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Airport Authority of India and their workman).

**BETWEEN**

Sri V.R. Kannan : 1st Party/  
Petitioner

**AND**

The Airport Director : 2nd Party/  
Airport Authority of India  
International Airport Division  
Chennai Airport  
Chennai-600027  
Respondent

**Appearance:**

For the 1st Party/ : Sri P. Rahunathan, Advocate  
Petitioner

For the 2nd Party/ : M/s A.J. Jawad & Y. Shoukath,  
Respondent Advocates

**AWARD**

The Central Government, Ministry of Labour & Employment vide its Order No. L-12011/12/2013-IR (M) dated 06.02.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the management of Airports Authority of India, Chennai regarding termination of the service of the petitioner, Sri V.R. Kannan w.e.f. 02.02.2001 without following the provisions of Section-25(F) of the ID Act is justified or not? If not, to what relief the workman is entitled to?”

2. After the receipt of the Industrial Dispute this Tribunal has numbered it as ID 8/2014 and issued notices to both sides. Both parties entered appearance through their counsel and filed their claim and counter statement respectively.

3. The Respondent has raised a contention that the matter has already been decided by the Hon’ble High Court and is not maintainable before this Tribunal.

4. The petitioner has filed Writ Petition No. 2022/2001 before the High Court seeking regularization in the respondent establishment. On the basis of the judgment

of Supreme Court dated 06.12.1996. The High Court has held:

“This Court is not in a position to accept the contention that the petitioner has been continuously working with the First Respondent for 9 years till 1997. There is no material whatsoever to support the factual issue that the petitioner was working as contract labour on the crucial date i.e. 06.12.1996, the date of judgment of the Supreme Court and he was in the employment of the First Respondent as on 11.05.1994”.

5. The Writ Petition was dismissed for the above reason.

6. The issue having been decided by the High Court already the petitioner is not entitled to raise the issue again. Therefore the reference is closed. An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

**Witnesses Examined:**

For the 1st Party/Petitioner : None

For the 2nd Party/Management : None

**Documents Marked :****On the petitioner’s side**

<b>Ex.No.</b>	<b>Date</b>	<b>Description</b>
		N/A

**On the Management’s side**

<b>Ex.No.</b>	<b>Date</b>	<b>Description</b>
		N/A

नई दिल्ली, 20 अगस्त, 2014

**का.आ. 2296.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओ.एन.जी.सी. लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 12, 13, 14, 15/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 5/08/2014 को प्राप्त हुआ था।

[सं. एल-30012/3, 4, 1, 2/2013-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th August, 2014

**S.O. 2296.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 12, 13, 14, 15/2013) of the Central Government Industrial Tribunal/ Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation

to the management of ONGC Limited and their workman, which was received by the Central Government on 5/8/2014.

[No. L-30012/3, 4, 1, 2/2013-IR(M)]

JOHAN TOPNO, Under Secy.

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT  
CHENNAI**

Friday, the 18th July, 2014

**Present :** K.P. PRASANNA KUMARI, Presiding Officer

**Industrial Dispute No. 12, 13, 14 & 15/2013**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of ONGC Ltd. and their workman)

**BETWEEN**

1. Sri V. Ramesh : 1st Party/  
Petitioners

2. Sri N. Soundarajan & 2 Others

3. Sri P. Aingarane & 2 Others

4. Sri B. Mahendran & 10 Others

**AND**

The Asset Manager & Executive Director : 2nd Party/  
ONGC Ltd., Cauvery Asset Respondent  
Karaikal-609004

**Appearance :**

For the 1st Party/ : M/s Row & Reddy, Advocates  
Petitioner

For the 2nd Party/ : M/s P. Arulmudi &  
Respondent G. Balasubramanian, Advocate

S. No.	I.D. No. & Date	Reference No. & Date	Name of the I Party S/Sri	Name of the II Party	Appearance for Workman	Appearance for Respondent
1.	12/2013	L-30012/3/2013-IR (M) dated 30.01.2013	V. Ramesh	The Asstt. Manager, & Executive Director ONGC Ltd. Cauvery Asset Karaikal-609004	M/s Row & Reddy, Advocates	M/s P. Arulmudi & G. Balasubramanian
2.	13/2013	L-30012/4/2013-IR (M) dated 30.01.2013	N. Soundarajan R. Varatharajan A. Nagarajan	The Asstt. Manager, & Executive Director ONGC Ltd. Cauvery Asset Karaikal-609004	M/s Row & Reddy, Advocates	M/s P. Arulmudi & G. Balasubramanian
3.	14/2013	L-30012/1/2013-IR (M) dated 30.01.2013	P. Aingarane & 2 Others	The Asstt. Manager, & Executive Director ONGC Ltd. Cauvery Asset Karaikal-609004	M/s Row & Reddy, Advocates	M/s P. Arulmudi & G. Balasubramanian
4.	15/2013	L-30012/2/2013-IR (M) dated 30.01.2013	B. Mahendran & 10 Others	The Asstt. Manager, & Executive Director ONGC Ltd. Cauvery Asset Karaikal-609004	M/s Row & Reddy, Advocates	M/s P. Arulmudi & G. Balasubramanian

**COMMON AWARD**

The Central Government, Ministry of Labour & Employment vide the order of references referred detailed below referred the IDs mentioned above to the Industrial Tribunal, Madras for adjudication. The IDs were numbered as ID 12, 13, 14 & 15 of 2013 respectively. In all the IDs the parties have entered appearance through the counsel and filed claim and counter statement respectively.

2. The schedule mentioned in the orders of reference in the above IDs are as under:

**ID 12/2013**

“Whether the demand of the workman Sri V. Ramesh for regular absorption in the ONGC on the grade they are employed at present is legal and justified? What relief the said workman are entitled?”

**ID 13/2013**

“Whether the demand of the workmen S/Sri N. Soundarajan, R. Varadharajan and A. Nagarajan for regular absorption in the ONGC on the grade pay are employed at present is legal and justified? What relief the said workman are entitled?”

**ID 14/2013**

“Whether the demand of the workmen S/Sri P. Aingarane, G. Mahalingam and M. Muralitharan for regular absorption in the ONGC on the grade they are employed at present is legal and justified? What relief the said workman are entitled?”

3. The averments in the in the Claim Statement in ID 12/2013 are as below:

The petitioner joined the service of the Respondent as Junior Assistant Technician (Electrical). He has been working in the service and maintenance of Diesel Generator Set and other related electrical items at Kovilkallalp for ONGC Ltd. Cauvery Project, from 1995. Though initially he was working through various Contractors, later a Society was formed on the suggestion of the Respondent. This was done to avoid Third Party Contractors taking away a share of the profit. Though the petitioner was not treated as direct employee, the petitioner is fully qualified for being absorbed as Junior Assistant Technician (Electrical). He has got diploma in Electrical and Electronics Engineering with "C" license. He has undergone Apprenticeship Training under the Tamil Nadu Electricity Board. The petitioner has been continuously working with the Respondent from the year 1995. However, these facts were not taken into consideration by the Respondent and the Respondent has refused to absorb the petitioner in the service. The Respondent has taken fresh hands from outside without considering the request of the petitioner for absorption. The Central Government has prohibited engagement of Contract Labour under Section-10 of Contract Labour (Regulation and Abolition) Act. The petitioner has filed Writ Petition before the High Court of Madras seeking an order for absorption as regular employee with the Respondent. The Writ Petition alongwith other similar petitions were disposed of with a direction to the Central Government to refer the issue to the Tribunal. The High Court has also directed the Respondent to consider the petitioner for future vacancies. Though the petitioner has applied for vacancies for which applications were called for, he was not called for interview. Though the petitioner has put in 18 years of service he is getting a monthly salary of just Rs. 6,237/- only. At the same time a regular sanitary cleaner in ONGC is getting Rs. 30,000/- per month. The petitioner having worked for several years with the Respondent it will not be fair to deny him regularization. An order may be passed directing the Respondent to absorb the petitioner in the regular service of the Respondent with back wages, continuity of service, increments and other attendant benefits.

4. The Respondent has filed Counter Statement contending as follows:

The Respondent has never engaged the petitioner directly as Junior Assistant Technician. There is no employer-employee relationship between the petitioner and the Respondent the petitioner is a contractual worker and had worked under different Contractors. The appointments in ONGC are made as per its recruitment and promotion policy. The Respondent has not engaged any person on contract basis for jobs falling under prohibited categories. The petitioner should have made application for selection as directed by the High Court. Recruitment advertisement was published in all national

dailies and also displayed in notice board of ONGC premises. The petitioner is not entitled to any relief.

5. The petitioners in ID 13/2013, 14/2013 and 15/2013 also have filed Claim Statements claiming that they are entitled to be absorbed in the regular service of the Respondent. The petitioners in ID 13/2013 are said to have been working in maintenance of cementing services work, drilling in ONGC Cauvery Project from 1991. According to them from 1998 they were working through a registered society viz. Oilfield and Coalmen Employees Society in which persons similar to them are members. They claim that they are having the necessary qualification and are entitled to be absorbed in the service of the Respondent, they having been working for the Respondent for several years. The three petitioners in ID 14/21013 are said to have joined the service of the Respondent as Junior Assistant Technician (Production). They are also members of Oilfield and Coalmen Employees Society. A Society said to have been formed on the suggestion of the Respondent. They have also claimed that they have sufficient qualification and are entitled to be absorbed in the service of the Respondent. The 11 petitioners in ID 15/2013 have joined the service of the Respondent as Driver and Helper and is said to have been working at the Base Office of ONGC for Cauvery Project from 1991. They are members of the Oilfield and Coalmen Employees Society. They have also claimed absorption in the regular service of the Respondent. In these IDs also the Respondent has filed Counter Statement contending that there is no employer-employee relationship with it and the petitioners, the petitioners having been employed through Contractors. It is further stated that the work done by any of the workers will not fall under the prohibited categories of employment under CLRA Act.

6. The issue to be considered in all the matters being one and the same. All the IDs were tried together. Evidence is recorded in ID 12/2013.

7. On the side of the petitioner, WWs 1 and 2 were examined and Exts.W1 to Ext.W30 were marked. On the side of the Respondent MW1 was examined and Exts.M1 to Ext.M5 were marked.

8. Points for consideration in the IDs are:

- (i) Whether the petitioners are entitled to absorption in the regular service of the Respondent in the grade in which they are now employed?
- (ii) What is the relief to which each of the petitioners are entitled?

#### **The Points**

9. The petitioners are even now working with the Respondent under different grades such Junior Assistant Technician, Drivers, etc. According to their own case, they are not direct employees of the Respondent. Initially, they were being employed through different Contractors.

According to them, it was suggested by the Respondent itself a Society as formed with all the contract employees as members. On formation of the Society, the Respondent is said to have been employing them through the Society as a contractual agency. It is the case of the petitioners that they have been working for the Respondent for several years and for this reason they are entitled to be absorbed in the regular service of the Respondent. According to them they are all having qualification to be absorbed in the regular service of the Respondent. The Respondent has not specifically denied the case that the petitioners have been working for them for several years continuously. According to them, they were working under different contractors and so there was never employer-employee relationship between them. It is further stated by the Respondent that it has not employed any persons on contract in the categories in which there is prohibition for employing on contract. Thus according to the Respondents, they have not violated any law in accepting the service of the petitioners through contractual agencies. It is further contended by the Respondent that recruitment to the regular service of the Respondent could be in accordance with the recruitment rules only and therefore absorption of the petitioners in the service of the Respondent is not possible.

10. Two of the petitioners have given evidence as WW1 and WW2. They have only reiterated their case in their respective petitions, in the affidavit filed by them in lieu of Chief Examination. Much reference to the documents produced on behalf of the petitioners also is not required in the background of the facts of the case.

11. The counsel for the Respondent has referred to Uma Devi's case wherein the Apex Court has laid down that recruitment to the sanctioned post can be only in accordance with the recruitment rules and other accepted mode of appointment. Any other mode of appointment would in effect be a backdoor entry, the Apex Court has stated, it is pointed out. Even while accepting the dictum on recruitment laid down by the Supreme Court, the case on behalf of the petitioners is that they are entitled to be absorbed in the service of the Respondent. The petitioners have referred to a few judgments of the Supreme Court and that of Madras High Court also in support of their argument.

12. Initially, reference has been made to the long recognized decision of the Apex Court rendered through Justice Krishna Iyer in Hussain Bhai Vs. Alath Factory Thozhilali Union and Others where it has been held that the work done by the workman having been an integral part of the industry concerned, the raw material having been supplied by the Management, the factory premises being owned by the Management, the equipment used for the work belonging to the Management and the finished product having been taken by the Management for its

own trade, the workmen concerned are the workmen of the concerned employer. Though the above basic concept regarding employer-employee relationship broadly stated by Justice Krishna Iyer still holds good, this concept has undergone lot of interpretations and thereby lot of change as observed in the subsequent judgments rendered by the Apex Court. The question to be considered is whether the petitioners are still entitled to be absorbed in the service of the Respondent on the basis of the changed concept. Are the decisions relied upon by the petitioners helpful to them in this respect? One decision referred to on behalf of the petitioners is CATERING CLEANERS OF SOUTHERN RAILWAY VS. UNION OF INDIA AND ANOTHER reported in 1987 1 SCC 700. The workers in the above case were catering cleaners working in the catering establishments in various railway junctions. The Apex Court has found that the work done by them satisfies the conditions of Section-10(2) of CLRA Act. The Apex Court has directed the Central Government to take appropriate action under Section-10 of CLRA Act in the matter of prohibiting the employment of Contract Labour in the work of cleaning and catering establishments and pantry cars in the Southern Railway. The Apex Court also asked the Railway to abolish the Contract Labour System and regularize the service of the concerned workmen on its own motion. In the present case, there is no case for the petitioners that the work done by them is one that satisfies the conditions of Section-10(2) of CLRA Act. It is asserted by the Respondent that it had not employed any persons on contract basis under the prohibited categories. The Respondent has also produced two prohibitory notifications, Ext.M1 and Ext.M2 issued by the Central Government stating which categories of jobs are prohibited under the Act. So the above decision is not of any help to the petitioners since they are not coming under the prohibited categories of employments.

13. Another decision referred to on behalf of the petitioners is SHANKAR MUKHERJEE AND OTHERS VS. UNION OF INDIA AND OTHERS reported in 1990 (Supp) SCC 668. It was a case where the work of loading and unloading of bricks were brought in the prohibited category under Section-10 of Contract Labour (Regulation and Abolition) Act. The Apex Court has found that there was no justification for excluding the job from the purview of the notification and directed that those workmen who were doing the job and were retrenched are to be put back into service. The question whether a contractual employee is entitled to regularization was not considered in the above case.

14. The decision in MISHRA DATU NIGAM AND OTHERS VS VENKATAIAH AND OTHERS reported in 2003 7 SCC 488 is another decision referred to on behalf of the petitioners. However, this is also not applicable to the facts of the present case. In the above case the Apex Court has held that where a canteen was being maintained in

discharge of a statutory obligation and yet availed the services of a Contractor the workman would be the employee of the principal employer.

15. In the decision RAM SINGH AND OTHERS VS. UNION TERRITORY CHANDIGARH AND OTHERS AND OTHER CASES reported in 2004 1 LLN 511 it has been held that whether a particular relationship between employer and employee is genuine or a camouflage through the mode of contract is essentially a question of fact to be determined on the basis of features of relationship, the written terms of employment and the actual nature of employment and has to be raised and proved before an Industrial Adjudicator. It was further held that without ascertaining through the industrial forum, factual aspects of inter-se relationship between the parties, the relief of regularization in service cannot be granted. In the present case, it is not pleaded that the contract by which the petitioners are working for the Respondent is not a genuine one and is only a camouflage. The petitioners did not raise any dispute regarding the nature of relationship between the petitioners and the Respondent.

16. The counsel for the petitioner has also referred to the decision in RADHAKRISHNAN AND OTHERS VS. REGISTRAR, CENTRAL ADMINISTRATIVE TRIBUNAL AND OTHERS, MADRAS BENCH reported in 2007 4 MLJ 650. However, in this matter the consideration was regarding regularization of workmen who were directly employed by the Management. Same is the case in the decision in HINDUSTAN PETROLEUM CORPORATION LTD. VS. THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CHENNAI AND OTHERS reported in 2008 4 CTC 819. In the above case it was established in evidence that the concerned workers were directly employed by the employer and that the Contract is sham and nominal. So the facts of the above case are also not in parimateria with the facts of the present case.

17. In the decision in MAHARASHTRA STATE ROAD TRANSPORT CORPORATION AND ANOTHER VS. CASTERIBE RAJYA PARIVAHAN KARAMCHARI SANGHATANA reported in 2009 8 SCC 556, the Apex Court was considering a particular provision in the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, the Apex Court has held that the dictum laid down in Uma Devi's case (2006 4 SSC 1) does not denude industrial and labour courts of the statutory power under Section-30 read with Section-32 of the said Maharashtra Act. In the absence of such a provision in the ID Act the dictum cannot be applied here.

18. In the decision in BHILWARA DUGDH UTPADAK SAHAKARI LTD. VS. VINOD KUMAR SHARMA reported in CDJ 2011 SC 832, the Trial Court has found that the workmen were employees of the appellant and not employees of the Contractor. This finding was upheld by

the Apex Court and thereby the regularization of the workers also. Thus it could be seen that the facts of the cases relied upon by the counsel by the petitioner are different. So the dictum laid down in those case could not be made applicable to the facts of the present case.

19. The petitioners herein were admittedly working for the Respondent through Contractors. Even in the Claim Statement it is stated that at the beginning they were working through various Contractor and subsequently a society was formed on the suggestion of the Respondent to avoid third party contractors taking away a share of the profit. It is again stated in the Claim Statement itself that this forming of Society deny them the benefit of being treated as direct employees. Thus the petitioners have accepted the fact they were working through Contractors and not directly under the Respondent. There is no plea that they were directly employed. And no attempt has been made to let in any evidence to this effect also. Even now they continued to work for the Respondent on contract. The Respondent has produced Ext.M1 and Ext.M2, the notifications prohibiting employment of contract labour for certain types of jobs in its establishment. The work done by the petitioners will not come under these prohibited categories. So the Respondent was acting within the provisions of CLRA Act in employing the petitioners on contract basis. So the petitioners are not entitled to regularization as claimed by them.

20. Even though the petitioners were working through Contractors, the fact remains that they were working for the Respondent for a long time though under different Contractors. They were working in the same position with the Respondent for years together. They were working for a much lesser amount than the regular employees. It was considering this aspect the Hon'ble High Court has directed in the common order in the different Writ Petitions filed by the petitioners that if any vacancies occur in the future in the Respondent institution the petitioners in whose favour there is prohibitory order and who are otherwise eligible shall be considered and preferences shall be given to them by relaxing age and other qualifications. The petitioners have stated in their Claim Statement that they filed applications to the Respondent when notifications of vacancies was issued by the Respondent. It is admitted by MW1 also that they have applied for the post of Junior Assistant. According to MW1, the result of the petitioners are withheld. MW1 has even admitted during his cross-examination that the Respondent has written a letter to the Contractor on 24.02.2014 stating that if the workers are to get fair wages, they have to withdraw cases against the Respondent. Thus it could be seen that merely because the petitioner have raised the dispute, the Respondent has been taking a vindictive attitude. The petitioners who were working for the Respondent for years and years must definitely be competent enough to hold

the position in which they are working. It is for the Respondent to consider their applications giving relaxation in age, etc. as directed by the High Court and take a decision in the applications. The Respondent will certainly be benefited by doing so, the petitioners being now experienced and have become experts in their job.

21. In the result the Respondent is directed to take decision in the applications filed by them for permanent placement with the Respondent within a month and inform them of the result. The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 18th July, 2014)

K. P. PRASANNA KUMARI, Presiding Officer

**Witness Examined :**

For the 1st Party/ Petitioner : WW1, Sri P. Aingarane

WW2, Sri V. Ramesh

For the 2nd Party/ Management : MW1, Sri N. Marimuthu

**Documents Marked :**

**On the side of the petitioner**

Ex.No.	Date	Description
Ex.W1	02.06.1995	Registration Certificate of Oil and Field and Coal Mines Employees Society
Ex.W2	10.11.1997	Bonafide Certificate issued by the Respondent
Ex.W3	09.03.1999	Circular issued by the Respondent
Ex.W4	22.12.2003	Deployment order issued to petitioners
Ex.W5	19.01.2005	Agreement between the Respondent and the Oil and Field and Coal Mines Employees Society
Ex.W6	12.04.2007	Movement order issued by Respondent
Ex.W7	10.03.2008	Agreement between the Respondent and the Oil and Field and Coal Mines Employees Society
Ex.W8	27.01.2012	Experience Certificate issued to petitioners
Ex.W9	-	Bio-Data of Petitioners
Ex.W10	-	Model Wage Register

Ex.W11	09.05.2013	Application of petitioners for the post of Junior Assistant accepted by the Respondent
Ex.W12	11.02.2014	Oil and Field and Coal Mine Employees Society Members List
Ex.W13	-	Certificates of V. Ramesh
Ex.W14	-	Certificates of P. Aingarane
Ex.W15	-	Certificates of G. Mahalingam
Ex.W16	-	Certificates of S. Muralidharan
Ex.W17	-	Certificates of B. Mahendran
Ex.W18	-	Certificates of V. Sundharam
Ex.W19	-	Certificates of R. Ramesh
Ex.W20	-	Certificates of P. Murugan
Ex.W21	-	Certificates of C. Ramanujam
Ex.W22	-	Certificates of L. Saravanan
Ex.W23	-	Certificates of R. Suresh
Ex.W24	-	Certificates of M. Shanmugam
Ex.W25	-	Certificates of R. Ravichandran
Ex.W26	-	Certificates of U. Raja
Ex.W27	-	Bio-Data and Certificates of N. Soundararasu
Ex.W28	-	Bio-Data and Certificates of A. Nagarajan
Ex.W29	-	Bio-Data and Certificates of R. Varatharajan
Ex.W30	-	Certificates of P. Saminathan
<b>On the side of the Management</b>		
Ex.No.	Date	Description
Ex.M1	08.12.1976	Prohibitory notification issued by the Central Government (Annexure R-II)
Ex.M2	08.09.1994	Prohibitory notification issued by the Central Government (Annexure R-2)
Ex.M3	09.12.2010	Common order in WP No. 17408, 17552, 19126, 19127 and 20614 of 1999 (Annexure R-3)
Ex.M4	-	ONGC's Recruitment and Promotion Policy (MRPR-80) (Annexure R-4)
Ex.M5	April 2013	Adv. No. 2/2013 (Annexure R-5)

नई दिल्ली, 20 अगस्त, 2014

**का.आ. 2297.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ऑयल कारपोरेशन लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ संख्या 118/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 5/08/2014 को प्राप्त हुआ था।

[सं. एल-30011/79/2004-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 20th August, 2014

**S.O. 2297.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 118/2005) of the Central Government Industrial Tribunal/Labour Court-2, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Oil Corporation Limited and their workman, which was received by the Central Government on 5/8/2014.

[No. L-30011/79/2004-IR(M)]

JOHAN TOPNO, Under Secy.

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, KARKARDOOMA, DELHI 110 032

PRESENT : SHRI HARBANS KUMAR SAXENA

ID No. 118/05

Sh. Mahipal & 14 Others

Versus

Indian Oil Corporation

No DISPUTE AWARD

The Central Government in the Ministry of Labour vide notification No L-30011/79/2004-IR(M)) dated

13.10.2005 referred the following Industrial Dispute to this tribunal for adjudication :-

“Whether the industrial dispute raised by Delhi Multi-Storeyed Building Employees Congress against the management of IOCL , SCOPE Complex, Case No. 2 Lodhi Road, New Delhi over regularization of service of 15 workmen (as per list attached) justified? If so, to what relief the concerned workmen are entitled?”

On 20.03.2006 reference was received in this tribunal. Which was register as I.D No. 118/05 and claimant was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workmen/claimants Sh.Mahipal & 14 others filed claim statement on 13.03.06 but against claim statement management not filed written statement.

Right of filing of written statement of management has been closed by this tribunal on 01.08.2013 and 13.09.2013 was fixed for Ex-parte evidence of workmen but workmen/claimant's have not produced their ex-parte evidence on 13.09.2013, 30.12.13, 18.02.13, 28.04.14, 09.06.2014. So, this tribunal on 09.06.2014 passed an order for passing no dispute award on 27.06.2014.

In these circumstances I am of considered view that this is a fit case for passing no dispute award in want of evidence of workmen/claimant's. Although several opportunities have been afforded to workmen/claimant's to adduce their evidence in this oldest ID.No. 118/05.

Reference is accordingly decided.

No Dispute Award is accordingly passed.

Dated : 27/06/2014

HARBANS KUMAR SAXENA, Presiding Officer